

STATE OF MINNESOTA }
COUNTY OF RAMSEY } SS

W. T. COX, being first duly sworn, deposes and says that on the eleventh day of March, 1933, in the City of St. Paul, Ramsey County, Minnesota, he served the attached answer to the charges of the Minnesota Conservation Commission contained in that certain resolution adopted by said commission on February 11, 1933, on said commission and each member thereof by depositing in the postoffice in St. Paul, Ramsey County, Minnesota, four duplicate originals of said answer, each of said duplicate originals being contained in an envelope with postage prepaid, said envelopes being addressed to members of the Conservation Commission of the State of Minnesota at their respective addresses as follows; towit:

Honorable John R. Foley	Secretary Conservation Commission	Wabasha, Minnesota.
Honorable E. R. Reiff	Member of Conservation Commission	202 19th Avenue N.E. North Saint Paul, Minn.
Honorable James T. Williams	Vice Chairman of Conservation Commission	% Creamette Company, 428 North 1, Minneapolis, Minnesota.
Honorable Richard R. Bailey	Member of Conservation Commission	Virginia, Minnesota.

W. T. Cox

Subscribed and sworn to before me this eleventh day of March, 1933.

G. H. Spangenberg
Notary Public, Ramsey County,
Minnesota.

My commission expires March 12, 1936.

5887

BEFORE THE CONSERVATION COMMISSION OF THE STATE OF MINNESOTA

IN THE MATTER OF CERTAIN CHARGES MADE BY }
THREE MEMBERS OF THE CONSERVATION COMMISSION OF MINNESOTA ON FEBRUARY 11, 1933, } ANSWER OF
AGAINST W. T. COX. } W. T. COX

I, W. T. Cox, in answer to the charges voted by three members of the conservation commission of the State of Minnesota against me on February 11, 1933, do hereby state:

On the question of my executive ability, experience, special training, and skill in conservation work, which is required by the law under which I was appointed, I wish to make the following brief statement of my connections prior to my appointment as commissioner of conservation.

From 1901 to 1905 I explored lands for national forests in the north, west and south, in the meantime working my way through the University of Minnesota, being a member of the forestry class of 1906.

In 1907 and 1908 I was placed in charge of the establishment of national forests. While so doing I made many observations extending the known ranges of different species of trees and mammals, and also started a systematic big game survey of the western mountain country. At this time I became a member of the Campfire Club of America, an honorary organization of big game hunters. Through this connection I helped President Theodore Roosevelt, Dr. Hornaday and others in the promotion of measures designed to prevent the extinction of bison, antelope, mountain sheep, elk, and other forms of wild life which were being hard pressed for existence.

At this time I was made Assistant United States Forester and placed in charge of all forestry work in the national forests and methods of cooperation with state and private administration of forest lands. At the request of President Roosevelt and Chief

Forester Pinchot, I participated in the work of the first conservation congress, the first nation-wide conference to promote the conservation of natural resources.

During 1909 and 1910 I remained in charge of the national forests. At this time I wrote the bulletin entitled, "Reforestation in the National Forests".

In 1911 I was asked to organize and administer the Minnesota state forest service and I continued in charge of such service until the year 1924. Some of the major accomplishments during my administration of the forest service were the obtaining of the cooperation of many public groups and organizations in the conservation of forests; the protection of the beaver and other forms of wild life; the control of forest fires; the discouragement of unwise drainage; the starting through the State Forestry Association of the publication of the first conservation magazine in the state; the obtaining from the legislature of authority to re-introduce elk into the state; the securing of the passage in 1914 of the State Forests Amendment to the constitution; the adoption of improved methods for forest fire control, such as power pumps and air patrols; and the increasing of permanent state forests by 300,000 acres.

During the war I served as Assistant Fuel Administrator for Minnesota and more than trebled the use of wood fuel as a war-time measure to conserve coal and man power.

In 1924 and 1925 I was engaged in making plans for permanent timber supplies in the western states and in Canada. I conducted an aeroplane reconnaissance of the timber resources of the Hudson Bay region and outlined a policy for the Dominion of Canada that assures a permanent timber supply for pulp and paper plants. While engaged in this work I also made contributions to known data on trees and animals of this area and of fur resources of this little known territory.

From 1925 to 1928 I was in charge of the Upper Mississippi Wild Life Refuge, doing the purchasing, organizing, stocking, and administration of this three hundred mile strip extending from Wabasha, Minnesota, to Rock Island, Illinois.

In 1929 and 1930, and until the summer of 1931, upon recommendation of the United States Department of Agriculture and various scientific organizations, I was employed by the Brazilian government to organize and establish a forest service for Brazil. During these two years I explored the Brazilian forest regions and planned and organized the forest service for the federal government of Brazil.

Twenty-nine so-called charges have been made against me, which I will now proceed to answer in the order in which they are presented in the resolution indorsed by three members of the conservation commission on February 11, 1933.

Charge Number One deals with my alleged failure to make reports to the conservation commission. This charge is frivolous and utterly groundless. I was present at practically all meetings of the commission and was willing and did give much information to the commission, and made many suggestions either directly or through the several divisions. I furnished the commission with written reports from the several divisions concerning the various activities within these divisions. These reports dealt with such subjects as commercial fish/^{ing,} fish propagation, wardens, accounts, and so forth, and were generally accompanied with a brief statement from me and were given to the commission at meetings or mailed to members of the commission in advance of meetings. The procuring of these reports in advance of the meetings involved considerable effort on my part, and I considered that the information contained therein, together with my verbal reports to the commission, constituted my reports and supplied the commission with all the necessary information relative to the activities of the department. I made every effort possible to keep the commission posted on the work of each division as well as the general work of the department. In

spite of my efforts to keep the members reasonably well informed as to the activities within the divisions some members of the commission, instead of taking matters up direct with the commissioner of conservation, made a practice of talking with officers in the divisions about various administrative matters, thus giving the impression that they had direct charge of such officers. In view of the information furnished to the commission as to the operations of the department, written reports were unnecessary. The preparation of such reports would have taken time from my constructive work.

Charge Number Two deals with the transfer of the jurisdiction over state lands, timbers and minerals from the state auditor to the department of conservation. The charge is a wilful and deliberate misrepresentation of the facts.

The commission knows very well that I made diligent efforts from the beginning to initiate an arrangement for this transfer from the state auditor, but because of the fact that there was a serious question as to the constitutionality of the transfer, and because of the further fact that the legislature had failed to appropriate any funds to the conservation department for the administration of lands and minerals, it became necessary to bring court actions to determine the matter. At the request of the commission such actions were brought by the attorney general, and the proceedings were put through as rapidly as the machinery of the law would permit. The supreme court decisions sustaining the validity of the transfer were handed down in January, 1933, and I proceeded immediately with efforts to establish the division of lands and minerals and to secure the necessary funds. But for my untimely suspension this new division would now be completed, but its functioning would depend upon the legislature making the necessary appropriations.

Charge Number Three relates to an investigation of the efficiency of department personnel.

The commission knows that the only division in which a general investigation was required was the division of game and fish, since the division of drainage and waters had only a small staff whose

efficiency was unquestioned, and the division of forestry already had in operation an efficient inspection service and the equivalent of a civil service system, under which a high standard of efficiency was maintained. The division of game and fish instituted an investigation of its personnel under my supervision with a view to eliminating politics from its appointments and establishing a merit system, but the results of this investigation were not at all satisfactory to me.

The appointment of subordinates in the department was entirely outside of the duties of the commission, whose sole duties under the law were to appoint a commissioner and determine policies.

If I had been allowed to exercise the authority which the law gave me, I would have eliminated politics from the department long ago and would have had a complete merit system established and operating in the division of game and fish as well as in the other divisions.

Charge Number Four, that I failed to report to the commission concerning the Gabbro-Bald Eagle Lakes project of the Minnesota Power and Light Company, is utterly groundless. Full information concerning this project had been laid before the commission by representatives of the divisions of forestry and drainage and waters and the attorney general's office. The commission was familiar with the situation, and had it desired to take any action, it could have done so at any time. However, it does not appear from the charges themselves that the commission gave the matter any attention after the meeting of November 7, 1931, referred to in the charges. As a matter of fact this matter has been in a state of suspension on account of the refusal of the Federal Power Commission to grant the company a permit as well as on account of the failure of the company to secure necessary authority from the state legislature. The conservation commission had no legal jurisdiction to act on the matter. Hence its efforts to charge me with responsibility are groundless.

Charge Number Five is a general assertion of my failure to submit propositions or recommend policies for the consideration of the commission. This charge is absolutely without foundation. No particular instances are pointed out. The fact is that it was the duty of the commission under the law to lay down policies for my guidance. This it failed to do, although I presented to it at various meetings information concerning the affairs of the department upon which they could have framed policies had they chosen to do so. Comprehensive programs for future development were prepared by the divisions of forestry and of drainage and waters under my direction and were submitted to the commission. The preparation of a program for the division of game and fish was under way.

Preparation of these programs, involving new fields of endeavor, has been a long and arduous task. Meantime the administrative work of the department had to be carried on. This work was greatly hampered by lack of sufficient appropriations and by the constant interference of the commission in details which were outside the scope of its authority.

Charge Number Six, that I failed to suggest meetings of the commission, is ridiculous, in view of the fact that the commission met on its own initiative much oftener than was necessary and consumed in payment of its expenses considerable amounts of the department funds which could have been spent more effectively in administrative work.

The meetings of the commission were so frequent and so protracted that it was unnecessary to suggest additional meetings. Four to six meetings a year, with the right to call special meetings when necessary, should be ample to determine the policies of the department, would save considerable expense to the state, and would not interfere with the administrative work of the department.

Since the organization of the commission it has met practically every month and sometimes oftener, the meetings usually lasting from two to three days. These frequent and lengthy meetings interfered seriously with the necessary work of the department. The meetings were usually held on week-ends, frequently lasting over Saturday and Sunday. These week-end meetings interfered with administrative and speaking engagements of the commissioner, inspection trips and conferences. The attention of the commission was called to these matters, but meeting dates were not changed.

The conservation act provides that members of the commission shall serve without compensation, but shall receive actual and necessary travelling and other expenses incurred in the performance of their duties as such members. Mr. McEwen, chairman of the commission, employed Harriet Coleman, and Mr. Foley, secretary of the commission, employed Florence C. Foley, as clerks at their respective offices at Duluth and Wabasha, at an expense to the state of eighty dollars each per month. Both of these clerks had been regularly employed in these private offices prior to their employment by the state. I objected to these appointments. The ostensible purpose in procuring such clerks was to carry on correspondence. Letters coming from these two offices would confuse the public and work to the detriment of the department, as the public would not know who was the responsible head of the department and would not know whom to consult with reference to departmental matters.

Charge Number Seven is that I attempted to establish a censorship on the news of the activities of the commission meetings, which charge I deny. What I did was to suggest that news concerning the operations of the department should be released only with the official sanction either of the commission or of myself so as to avoid giving the public erroneous impressions as to ^{important} departmental projects. I endeavored to cooperate with the

commission in seeing that the press received full, complete and accurate reports of its activities as well as of the activities of the department after definite decisions had been made as to the course of such activities.

Charge Number Eight deals with my alleged failure to present programs of the matters to be considered at commission meetings. Ordinarily it is the duty of the secretary of any board or commission to prepare a program of matters to be considered by such board or commission.

At different meetings prior to April, 1932, I prepared and placed in the hands of the chairman lists of matters to be discussed at such meetings, but usually such lists were wholly or in part ignored, and the discussions branched off on other topics. At other meetings I had for my own information lists of topics which I wished to discuss with the commission. Sometimes such topics were taken up, but more often were crowded out by a discussion of administrative details with which the commission saw fit to concern itself instead of dealing with general policies as the law required.

Charge Number Nine deals with budget matters and tries to make a point out of the fact that a summary of a certain game and fish budget was submitted to the commission rather than the completed budget. This is a trivial and immaterial charge.

At the time the commission requested the semi-annual budget for 1932, the division of game and fish had not yet completed its portion of the budget, so I submitted a summary of the game and fish budget, as shown by exhibit "D", accompanied by an oral explanation thereof to the commission. The complete budget not having been prepared, it was impossible to submit copies thereof. I did submit to the commission copies of the semi-annual budget of the divisions in June, 1932, and also copies of the proposed biennial budget in the fall of 1932, as admitted in the charge.

Again the game and fish division was slow in preparing the semi-annual budget for the period beginning January 1, 1933, and as this budget was being called for by the budget commissioner, and as the conservation commission was not in session at the time it was completed, it was sent direct to the budget commissioner as soon as it was prepared.

Charge Number Ten deals with the delay in securing the release by the budget commissioner of funds with which to complete the purchase of a certain tract of land.

When the conservation commission decided to establish the Whitewater Game Refuge, it also decided to purchase a tract of land consisting of one hundred acres on which was located Crystal Springs as the first purchase in this refuge. A committee of local sportsmen resident near this proposed refuge had been authorized to procure an option on various tracts, and they procured an option on the Crystal Springs tract at a purchase price of \$15,000.00. This option was for only thirty days, and the committee urged that the purchase be completed by the state within that time. There was some delay in getting the option to the department of conservation, and the title had to be examined by the attorney general's office. The purchase also had to be approved by the executive council. When these preliminary matters had all been taken care of, there remained but a few days in which the state could complete the purchase. Mrs. Wittich, the budget commissioner, then refused to release the moneys for this purchase. I interviewed the governor with reference to the matter, and it was not until after that that the money was released. The time was then so short that the owners of the land had to be advised by wire of the acceptance of the option by the state.

I never accused Mrs. Wittich of obstinately refusing to release this money as she may have had good reasons for her refusal, but the fact remains that in this instance the money was refused until about the last moment for action. If I had been

given a free hand in the acquisition of lands for the Whitewater Game Refuge, I would not have insisted on the immediate acquisition of the Crystal Springs property, but would first have acquired some of the cheaper lands in this area with a view to later acquiring Crystal Springs, as I was of the opinion, and so expressed myself repeatedly to the commission and to Dr. Dixon, chairman of the local committee, that this method would be more advantageous to the state. However, by the insistence of the commission that Crystal Springs be immediately acquired, I was put in the position of assenting thereto or of being charged by the commission and the people of southeastern Minnesota with being hostile to the project.

Charges Numbered Eleven, Twelve and Thirteen deal with budget matters.

I never ignored any requests of the department of administration and finance or of Mrs. Wittich, the budget commissioner and director of personnel, and no delays, if there were any, in the activities of the department of conservation were caused by failure to comply with such requests. All such requests were handled by the department of conservation by the same clerks who handled similar requests for the divisions of forestry and game and fish. These clerks were experienced in their work and had been in the employ of the state for some time. All such requests, so far as I know, were handled as expeditiously as possible.

Charge Number Fourteen is that I made practically no change in the personnel of the game wardens. I was constantly urging improvements in the personnel of the game warden force of the state. Mr. L. R. Beatty, one of the most experienced forest rangers in the state, and who was doing similar work for the forestry division, was transferred from the division of forestry to the division of game and fish for the purpose of inspecting the warden force and suggesting changes in the personnel and in the manner of handling the work in the different chief wardens'

districts. Mr. Beatty made his reports and recommendations to the director of the division of game and fish, under whom he worked. Changes in the personnel of the warden force could only be made by the director of that division with my approval. A number of suggested changes were made, and if all of Mr. Beatty's recommendations had been carried out the entire personnel of the game and fish division would have been reorganized under a merit system with greatly increased efficiency. However, as the commission is well aware, it was impossible to have all of these suggested changes made.

Charge Number Fifteen refers to the so-called "merit non-political" system for game wardens.

Under my direction a manual of instructions and procedure for game wardens was prepared, and I informed the commission that it was my intention that essentially the same merit system that had been followed in the forest service for many years would be put into effect in the division of game and fish. After being so informed the commission adopted the resolution referred to in charge fifteen establishing a so-called non-political system for game wardens. While I was in accord with the basic idea of this system, I was never in accord with the idea of having the wardens appeal from the commissioner to the commission as the resolution was made to read in the minutes. Such a right of appeal violates the principles of good business organization and tends to break down the merit system. If subordinates feel that they can go over the head of their superior, proper control and discipline is broken down. The commission, under the conservation act, is given power and authority to appoint a commissioner of conservation but is not given power to determine as to who shall or shall not fill the subordinate positions in the department, and such determination is held not to be a question of policy lying within the jurisdiction of the commission.

I did not announce to the public on April 16 that I had dismissed seven game wardens, but I did announce that the services of seven wardens had been dispensed with, such action, of course, being taken by the division of game and fish with the approval of the commissioner. Later for some reason some of the members of the commission seemed to feel that some of these men should be retained, and I believe that some of them were reinstated.

Charge Number Sixteen states in substance that I failed to give full information to the commission with reference to the cases of two game wardens who appealed to the commission. As heretofore stated, it is my opinion that under the law the authority to employ and discharge game wardens is vested in the director of the division of game and fish with the concurrence of the commissioner and not in the commission. Even though the commission adopted a resolution providing for an appeal to the commission, its decision would have no binding or legal effect upon the director and the commissioner. Nevertheless, the commission was informed as to the facts in the two cases referred to and practically concurred in the disposition thereof.

Charge Number Seventeen states that I failed to inform the commission about the Whitewater Game Refuge and failed to include certain items therefor in ^{one of} the budgets of the division of game and fish.

Mr. Stevens was transferred from the division of forestry to the division of game and fish for the purpose of making a survey of the Whitewater area, and also for the purpose of acquiring options within the boundaries of this area. One local man was employed to assist him. Reports of his activities were made from time to time to the division of game and fish, under whose jurisdiction he was working. The commission was at all times advised as to the progress of the project.

The preparation of the budget of the division of game and fish submitted to the secretary of the commission on June 3, 1932, had been delayed in the division of game and fish. As soon as it was available, it was immediately transmitted to the commission. As soon as the omission in the game and fish budget of the items for further acquisition of lands in the Whitewater area and for examination and improvement thereof was discovered, these items were inserted therein.

Charge Number Eighteen states that although authorized by the commission to do so at the July, 1932, meeting, I have failed to employ an assistant. On July 1, 1932, I appointed an assistant, whom I deemed efficient, dependable and loyal. At the July meeting, notwithstanding the fact that the conservation act gives the commission power to appoint or remove for cause only one officer, namely, the commissioner of conservation, the commission arbitrarily and without authority caused to be removed the assistant so appointed by the commissioner. After such action by the commission it was impractical for me to appoint any suitable man as assistant and request him to accept the appointment under such precarious conditions.

Charge Number Nineteen states that, although presenting a written report to the commission of my conferences with the state auditor relating to the division of lands and minerals, I failed to recommend to the commission a course of action to pursue. During the various negotiations and conferences with reference to the transfer of the lands and minerals from the auditor to the department of conservation, the commission was fully advised as to the facts. The commission had complete knowledge of the legal and practical questions involved and could use its own best judgment as to the best course to pursue. The entire matter was repeatedly discussed at various meetings of the commission. Finally the commission requested the attorney general to bring the test cases hereinbefore referred to with the results which have already been set forth.

Charge Number Twenty recites that in preparing an itinerary for a tour of southwestern Minnesota in the spring of 1932 by the commission, I omitted certain places where the people had requested meetings. The fact was that on this tour a sufficient number of places were visited to give the commission a good idea of southwestern Minnesota and of some of the conservation problems there. There was no intent to discriminate against the places which were not visited, but the circumstances were such that it was practically impossible to visit them on this trip.

Many other places throughout the state requested visits by the commission, or by members of the department, but owing to limitation of time and funds it was impossible to comply with such requests.

Charge Number Twenty-one recites that I did not stay during the entire hearing at Baudette, Minnesota, on May 31 and June 1, 1932, which hearing was with reference to the forest fires of September 11, 1931; also that I did not take an active part in the hearing while present thereat.

This hearing was held on the petition of certain paper companies, in which petition these companies alleged neglect of the forest service in connection with forest fires of September 11, 1931. These fires swept over a large area north of Red Lake in Lake of the Woods, Beltrami, and Koochiching counties. The petitioners claimed damages amounting to several hundred thousand dollars.

Obviously the purpose of the petitioners in requesting such a hearing was to lay the foundation for presenting their claims for damages to the 1933 session of the legislature and attempt to involve the conservation commission in the matter in such a way as to secure its backing for such claims. I was never in accord with the idea of holding such a hearing under these circumstances, as the interests of the state might be seriously jeopardized by such a proceeding and no practical good could be accomplished. Also, such a hearing was demoralizing to the forest service. It re-

quired a great deal of time and effort on the part of various members of the forest service in preparing plats and diagrams, compiling data, securing information, procuring the attendance of witnesses, and in attending to the various and numerous matters incident to presenting their side of the case. All of this was of considerable expense to the state and occupied the time of the forest officers when such time could have been used to better serve the interests of the state.

I do not recall that I was ever asked to attend this hearing. However, realizing the seriousness of the situation and the possible danger to the best interests of the state, I did arrange to be present during the first day of the hearing. No requests were made by the chairman and ^{the} secretary of the commission, who conducted the hearing, that I participate in any way therein; nor was it suggested that I remain until the end of the hearing. A very thorough examination of the witnesses was conducted by E. V. Kane, Esq., attorney for the paper companies, and by the special attorney for the department of conservation, who represented the commission at the hearing, and the members of the commission present also asked additional questions, so that I saw no need of conducting any further examination of the witnesses.

I remained until noon of the second day of the hearing, by which time it was apparent that the interests of the state were being adequately protected and that the hearing was drawing near an end. I then suggested to the members of the commission present that I did not see that I could be of any further assistance in the matter and that I desired to go on to Crookston to confer with some conservationists who were there for the meeting of the Isaak Walton League to be held the next day. No objection was made on the part of the members of the commission to my leaving Baudette at that time.

Charge Number Twenty-Two refers first to my alleged failure to attend a celebration at Thief Lake on June 3, 1932, held to celebrate the restoration of Thief Lake.

On my way to Crookston from Baudette on the afternoon of June 1, I made a personal examination of this project, having been familiar with it for years. I was in Crookston all day June second attending the meeting of the Isaak Walton League and spoke at the banquet on the evening of June 2, which was in reality a part of the Thief Lake celebration. I do not recall having received any request or invitation to go to Thief Lake for the remainder of the celebration on June 3. I had previously made an appointment to meet Dr. Vernon Bailey, eminent government naturalist, and Dr. Green at Lake Alexander, on June 3, to go over the details and arrange for a trip which Dr. Bailey was making in cooperation with the department of conservation into the caribou country north of Red Lake, and it was necessary for me to leave Crookston at noon on June 3 to keep this appointment.

The second part of charge number twenty-two relates to my detailed activities and to my failure to keep a diary thereof.

The great bulk of my time at the office was spent in handling administrative matters brought in from the different divisions of the department. In addition, each day there were callers and delegations from various parts of the state interested in conservation problems. Some of these callers could be referred to the various divisions and some could not be so referred. There were many problems about which persons from the federal departments, from other states, and from conservation organizations called at my office. In addition, there were many things that I was personally urging be done by the different divisions. Frequent conferences were necessary with the heads or representatives of other departments of the state government.

I was frequently called on to attend meetings in various parts of the state, and while most of such requests had to be declined, I did endeavor to attend the most important meetings. In addition, there was a great deal of correspondence to be taken care of dealing with matters which, because of their character, could not be referred to any one of the divisions of the department.

When the conservation commission was in session all such activities were largely suspended so as to give undivided time and attention to the commission.

This suspension of regular activities during the protracted meetings of the commission meant congestion of work for a time following each meeting, and, of course, some unavoidable delay.

I have no recollection of a request from the commission that I keep a diary for a month of my callers and conferences. Such request, if made, would hardly seem reasonable or necessary. The keeping of such a diary would have required additional clerical help and would have taken time from important business.

Charge Number Twenty-three states that I have failed to make any major suggestions for the improvement of the department and that I have failed to work in cooperation with the commission.

I made frequent suggestions to the directors of the divisions for the improvement of the work of such divisions and cooperated with them in many ways. I have at all times been only too glad to work and cooperate with the commission in all matters within its jurisdiction, and I have also gone out of my way to cooperate with the commission on matters which I felt were not properly commission problems. I have never been given a free hand as administrative head of the department of conservation, and I have never had the backing and freedom of action which I had a right to expect in administering the department.

Charge Number Twenty-four deals with an order which I made providing in effect that employees in the department could only be appointed or discharged with my written consent and charges that I never made such an order and that I made an announcement with reference thereto to the press to create a false impression in the minds of the public.

It is true that chapter 186, Laws 1931, specifically provides that employees of the divisions of the department of conservation cannot be employed except upon the approval of the conservation commissioner. In spite of this provision of the law, it came to my attention that men were being employed in the divisions without my knowledge or consent, one specific instance being the employment in the division of forestry of the brother of John R. Foley, secretary of the commission. Because of the fact that men were being so employed and discharged, I issued general order number one for 1932, under date of March 2, 1932, to the effect that no person should be employed, promoted, demoted, or discharged within the divisions without my written consent. This order was in accordance with the terms of the law. It was one of the regular departmental orders issued in an endeavor to improve as much as possible the personnel in the various divisions. It served to bring the matter forcibly to the attention of the directors of the various divisions. The order was not issued with any such intent or purpose as set forth in the charge, and any information given to the press with reference thereto was without any ulterior motive.

The latter part of charge twenty-four again brings up the matter of my presenting suggestions to the commission.

I was handicapped in presenting any suggestions to the commission because they were quite often either ignored or given slight consideration, and oftentimes I would be interrupted while presenting them and the discussion would be turned into other channels.

Charge Number Twenty-five states that I have made trips outside of the State of Minnesota without the consent of the commission.

I have made no such trips without explaining the purpose thereof to the governor and procuring his written approval in accordance with long established practice. I have taken only five such trips. On one of them I was accompanied by a member of the commission as its representative. The other trips were of such a nature that there was no occasion for consulting the commission. Apparently this is conceded as the charges make no assertion to the contrary.

Charge Number Twenty-six states that I have instructed employees of the department of conservation to give me all the publicity in connection with departmental activities and to disregard the conservation commission. This I deny. I do recall instructing Mr. Swenson, late editor of "Fins, Feather and Fur", that more mention of the commission's activities should be made in the departmental magazine. Moreover, I always made a practice of giving the directors of the various divisions as much credit as possible for the activities in their various divisions.

Charge Number Twenty-seven, in reference to alleged delay in completion of a land purchase in the Whitewater project, is without merit. If there was any delay, I was not responsible for it, and the interest of the state in no way suffered thereby. The charges apparently concede this, as there is no allegation to the contrary.

Charge Number Twenty-eight states that although requested at the April, 1932, meeting of the commission to submit a program in the division of game and fish, I have failed to do so.

For many months past I have been working on a wild life program. This is original work and it is very difficult because there is little to follow in the way of precedent for this part of the United States. Because of the numerous exacting duties devolving on me, it has been impossible heretofore to complete this program

and present it to the commission. Here again my work has been hampered by the constant interference by the commission with administrative details.

Charge Number Twenty-nine deals with a proposed purchase of certain lands in Anoka and Chisago counties for public shooting grounds and game refuges. I have advocated such purchase and I am of the opinion that this is one of the best projects of its kind in the state. I presented the matter a number of times to the commission, and at one meeting thereof I did get the approval of the commission to use a sum of money for the purchase of this and other refuge areas. However, I was unable to get a release of the necessary funds from the commission of administration and finance and never could get the entire conservation commission to visit the tract, although it lies only a short distance from the twin cities.

An impartial appraisal of the land was secured, but there was no need of procuring statements of the county boards of their approval of the purchase of these lands. However, I did meet with the Anoka County board and arranged to have that board meet with the commission.

As to the plan and program for developing the refuge, I explained to the commission that the cost of maintenance would be only about two thousand dollars per year, mainly for warden service, and that the income from hay and wood from the land would approximately take care of this expense.

At the time of the meeting of the commission with the Anoka County board on January 13, 1933, I was called to Washington, D. C. by the United States Senate Committee on Wild Life Conservation and by the committee considering reorganization of the federal agencies dealing with conservation. Inasmuch as I had already fully explained the project to the Anoka County board and to the commission, it was not necessary for me to be present at the meeting of the commission with the county board. The charges do not allege that my absence from the meet-

ing in any way made any difference as to the progress or lack of progress with reference to this project. I had already done all that I could to obtain favorable action on the project as I had it very much at heart.

Following the twenty-nine alleged charges hereinbefore discussed certain general charges are made, as follows:

(a) That I have done nothing to improve the forest service of the state. This work was being conducted by well-trained and efficient personnel, many of whom, including the division executives, had served under me formerly when I was state forester. These men had been actively engaged in this work for many years. They were following definite policies established during the early years of the forest service. In spite of the handicap of insufficient funds, this division was doing splendid work; and while a few changes might be desirable, no general reorganization or change of program is justified. In fact any sweeping changes would be likely to be disastrous.

(b) That I have done nothing of any consequence in matters pertaining to drainage and waters. That division of the department, like the division of forestry, was well conducted by able personnel though hampered by inadequate laws and insufficient funds. I have done all in my power to support the work of this division and to promote the cause of water conservation projects by all branches of the department.

(c) That I am unable to aid in the formulating of a land policy. I have been very active ever since I took office, and for many years previously, in advocating a progressive state land policy. I have cooperated with the Special Land Utilization Committee appointed by the governor, and of which the president of the university is chairman. This committee approved and adopted my suggestion, considered by me to be of first importance, that the state must acquire clear title to tax delinquent lands before a program

of zoning the lands and devoting them to appropriate uses can be carried out with reference to wild lands. More recently, the conservation commission in its report also adopted and stressed this point as of the utmost importance.

(d) That I have shown apathy and indifference toward the tourist business of the state.

It cannot be said in fairness that I have not taken an interest in the tourist business. As is well known, for years as state forester I took the lead in advocating the preservation and development of our out-door attractions. I initiated and organized the opposition that finally put an end to the huge drainage program that was doing incalculable damage to the forests, wild life and rural settlements and driving whole counties into bankruptcy. I got out the first playground map of the state, which has been used ever since by the Ten Thousand Lakes Association and others. For years I directed the publication known part of the time as the "North Woods" and at another time as "North Woods and Wild Life". I have continued to take the keenest interest in the conserving and bettering of forests, lake regions and wild life features to attract and hold the interest of our own people and of visitors to the state.

The charges state that the commission has avoided adopting hard and fast rules "in order to give the said W. T. Cox as free a hand as possible in the administration of said department", thereby implying that the commission adopted a policy of non-interference with administrative details. I am of the opinion that the commission has constantly and repeatedly interfered with administrative details of the department, thereby hampering the work of the department at every turn. As an illustration of such interference I will cite the case of Warden Lucas:

Some petitioners residing in Mille Lac game warden district preferred some charges against Warden Lucas. Director Stewart and Commissioner Cox decided to give Mr. Lucas a public hearing, thus handling the charges as a regular departmental matter.

The hearing was conducted by Commissioner Cox, Deputy Director of Game and Fish Enstrom, and Inspector Linder of the forestry service, who was temporarily working for the game and fish division. At the hearing all the complaints were heard, after which Warden Lucas and his witnesses refuted the charges. A large number of people from all parts of the county attended the hearing and the charges were so completely refuted that some of the people who complained apologized to Warden Lucas, and the hearing developed into something approaching an ovation for him. Warden Lucas was shown to be an exceedingly efficient warden. He was exonerated of the charges and informed of the action taken. Later Mr. Foley, a member of the commission, went to Waukon and conducted a further investigation of Warden Lucas. Mr. Foley took a court reporter from St. Paul with him and interviewed some persons in Mr. Lucas' district and wrote up a voluminous report. This caused considerable expense to the state, the court reporter alone being paid in the neighborhood of \$100.00 for his work. Mr. Foley made an adverse report as to Mr. Lucas, but I found nothing in the report to warrant a reversal of the action. The effect of this investigation by Mr. Foley was to give the field force of the division of game and fish a decided feeling of uncertainty as to whom they were responsible and the feeling that no matter how well their work was done they were likely to be subjected to expense and annoyance instead of receiving the support they had a right to expect. All this was detrimental to the efficiency of the field force. The inspection of a warden and his work is purely an administrative matter and does not appear in any way to involve the formation of policies by the conservation commission.

The charges are so long and so indefinite that it has been difficult to cover every point in detail. However, in so far as the charges allege any lack of ability or dereliction in duty on my part they are positively denied.

CONCLUSION

I contend that the charges, singly or collectively, do not allege any facts which would constitute sufficient cause for my dismissal. The charges deal largely in generalities and abound with repetition of irrelevant statements. They teem with unfounded and unfair utterances which appear to reflect the personal prejudice of their author, presumably Mr. John R. Foley, secretary of the commission. They are not the work of the commission as a whole. Mr. Foley succeeded in persuading two of his fellow members, Mr. Bailey and the late Mr. McEwen, to vote with him in preferring the charges. However, it is doubtful whether they would have been willing to subscribe in detail to all the far-fetched allegations therein. Two of the members of the commission, Mr. Reiff and Mr. Williams, being ^{un}informed of the nature of the charges until the meeting at which they were presented convened and recognizing the unreasonableness of the procedure, refused to vote on the resolution. In view of the nature of the charges and of the circumstances under which they were framed and presented to the commission as above stated, I object to each and all of them on the ground that they do not state facts sufficient to constitute cause for my removal under the law. I therefore demand that the charges be reconsidered by the commission.

The unfortunate and sudden death of Mr. McEwen, chairman of the commission, furnishes another reason for such reconsideration. As the matter now stands two of the present members of the commission have voted for the charges and two have refused to do so. The new member who will be appointed by the governor in Mr. McEwen's place will be called upon to vote on the ultimate disposition of the case. He should first be given an opportunity to examine the charges and vote upon their form and sufficiency.

For these reasons I demand that the charges be reconsidered by the commission as to their form and sufficiency before proceeding to a hearing.

If the commission determines to proceed to a hearing, I will demand that Mr. Foley be not permitted to vote upon the final determination of the matter on account of his evident prejudice against me as exhibited at meetings of the commission and as shown by the charges themselves. Mr. Foley has already assumed the role of accuser and prosecutor in this case. It is manifestly unfair and contrary to the fundamental principles and practices of American jurisprudence that he should sit as a judge.

I desire to make it clear that I am not making a fight for myself personally in these proceedings, but for the cause of conservation, to which I have devoted my life. I am confident that if the conservation commission had confined itself within its legal sphere of laying down the policies for the department and had supported me in carrying out my plans instead of constantly interfering in administrative affairs as it did, I would by this time have advanced the work of the department to a point that would have met all reasonable expectations.

Whether or not I continue as commissioner of conservation is of small consequence. The question as to whether the commissioner of conservation is to have and exercise the authority which the law contemplates and is to be given a free hand and proper support, subject only to general policies laid down by the conservation commission, in building up a real conservation department to serve the people of Minnesota, or whether he is to be hampered and defeated in every attempt for the betterment of the department by interference of the commission in administrative details, is of paramount importance.

Respectfully submitted:

W. S. Cox

5887