

HUNNEMAN & BALCH
COUNSELLORS AT LAW
504-507 MASSACHUSETTS BUILDING
60 STATE STREET

CARLETON HUNNEMAN
FRANCIS N. BALCH

TELEPHONES { 5004 } MAIN
 { 5006 }
CABLE ADDRESS, HUNBALCH

BOSTON, 21st December, 1909.

William Brewster, Esq.,
145 Brattle Street,
Cambridge, Mass.

My dear Mr. Brewster:

Thank you for your interesting letter of the 17th in reply to my enquiry. I do wish I might have the benefit of of your fully expressed views. Don't you ever come into town. Christmas shopping or the like? And if so couldn't you call me on the telephone on some such occasion and arrange to meet me at the Union Club or elsewhere for lunch.?

As to the brant and the wild-fowl bill there is quite a story to tell. I feel that Forbush (of the Audubon Society, you know) was unfair and unscrupulous if I have the facts right. It may be, of course, that there is another side to the story. But as I saw it and heard it what happened was this. The year before the whole matter was quite thoroughly threshed out, and Forbush admitted in open committee that there was no need of stopping spring branting and that he would not ask for it. I may mention that almost all my friends among the gunners are perfectly willing to stand for ~~-----~~and did favor~~-----~~a reasonable and discriminating spring shooting law. We are all perfectly willing to give up our spring sport when any good reason exists~~-----~~and it does exist for a good part of it. Well, this year again Forbush asked for a root-and-branch bill in spite of

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his admissions of the year before. None of the brant-shooters took very much interest because they believed in ^{the} its measure as a whole and had every assurance that with a little explanation at the committee hearings the brant would be excepted. Such explanations were made and the committee seemed to grasp the point. I did not appear myself this year because I felt sure it would be all right. A member of the committee told me toward the close of the hearings that there was no need of it as the committee understood the situation and were going to except the brant. When the measure was thrown into joint committee of conference a very prominent member of the committee told me the same thing. A little later I heard the bill had been passed, brant and all. Calling on this member for an explanation he said Forbush had been round to all the members (I am not sure whether orally or in writing) and told them that the brant must not be excepted, that they were very rare and in danger of extermination, that there were not over one thousand left in Massachusetts waters (I am not clear that Forbush was responsible for this statement----it is possible it was the head of the State Commission on Fisheries and Game but anyway I understood Forbush assented) and quoted you as taking the same position. The member of the committee was astonished when I said I understood you otherwise----he said I must be mistaken, that Forbush quoted you positively. The statement as to the number of birds was a plain English lie if made by anyone with the least knowledge of the facts. Otherwise it was merely a wild inaccuracy, though almost equally inexcusable coming from one who purported to speak with authority. If a lawyer condescended to tactics like the above (which not many do) he would be called very ugly names.

I took Dr. Townsend down to Monomoy with me last Spring

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on purpose to see the brant. He was there only one day but made a careful estimate of the brant seen as 2500. This was only for a part of Chatham Bay. Three days later there were five brant where there was one when he was there. At the same time there were, as I found by enquiry, brant very plentiful at Muskeget, and also some at Yarmouth and in Pleasant Bay. It is a good safe guess that there were not less than 20,000 right around Cape Cod at that time----there may well have been considerably more than double that,----and that year was not particularly good. Townsend was also convinced that the brant-shooting was a very harmless sport. He would not go before the committee however because he is frankly opposed to gunning anyhow----wants the shore kept perfectly quiet so that the birds will breed here once more. No one can quarrel with that position though he may differ from it. If Forbush had come out in a manly way with a plea like that no one could object. We intend to see that the whole matter is re-opened this Winter and brother Forbush may have a chance to explain publicly ----if he can.

Very truly yours,

Frank H. Neal

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 { 5005 }
CABLE ADDRESS, HUNBALCH

BOSTON, 6th January, 1910.

Mr. William Brewster,
145 Brattle Street,
Cambridge, Mass.

Dear Mr. Brewster:

I ought to have answered your interesting letter of December 23d before but during the week after Christmas what little time I could spare was taken up with the meeting of the zoologists while after the ending of that meeting the New Year's business had to be done.

I wish I could see you to talk over the nomenclature matter. I daresay you have heard what happened at this meeting. There was quite a lively scene but it seems to me everything came out very well and that probably no great harm can have been done while probably some good has ~~been~~.

About the brant and Mr. Forbush, I should be very glad to be shown that I was mistaken about him and I willingly admit that it is possible I may have been. My information is largely second-hand although it comes from a thoroughly reliable man. To make me think that Mr. Forbush had acted in a fair and straightforward manner I should have to have some kind of rather solemn denial from him and also an explanation of the incidents on which my information was based. In other words, the man who told me may have been mistaken or may have misunderstood, but he is not a liar. I have personal knowledge of Mr. Forbush's attitude year before last and was present when he made the admission I mentioned in my last letter.

I forgot to tell you one or two things he is said to have done. He ^{is said to have} exhibited a stuffed brant to the committee and told them it was

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a great curiosity as this noble bird was now nearly extinct by reason of the spring shooting!

I hate to believe that a scientific man or quasi scientific man, with a love of nature such as I suppose Mr. Forbush to have, can stoop to this kind of thing. As my notion of Mr. Forbush is, I find, pretty widespread and reacts most unfavorably on the Audubon Society and in general on the whole matter of proper game laws and their proper enforcement, the impression among the gunning men ought to be corrected if it can be. So long as men look upon a law as the work of a disingenuous fanatic, whether a man or a society, based on gross and knowing misrepresentation, and believe that if the law-makers had been truly informed as to the facts the law would not have been passed, so long you will not find the law honored. I do not state this in the least as a threat. Personally I consider myself absolutely morally bound by every law the Commonwealth makes no matter how I may privately despise it, and all the gunners I know are preparing to obey the new law, but many of them very sullenly. The feeling is general and very unfortunate that they have simply been tricked; that this law was not made in good faith for bird protection but merely jammed through politically and has accordingly no moral force at all but is to be beaten whenever and however legally possible. That is a wholly wrong condition of affairs. The gunners should be, and might be made for the most part, zealous defenders and enforcers of the gunning laws. The major and better part of them love the birds almost, though I suppose not quite, as well as the Audubon people.

Very truly yours,
Francis W. J. J. J.

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BOSTON, 11th January, 1910.

Mr. William Brewster,
145 Brattle Street,
Cambridge, Mass.

Dear Mr. Brewster:

I agree with your letter of January 10th, i.e., it seems to me that if I and others are mistaken about Mr. Forbush it is highly desirable that we should be convinced of it, as we are quite willing to be, while if we are not mistaken it is well that you and others should know it. I did not mean to sneer at Mr. Forbush's scientific attainments about which I know nothing whatever. No outcome could suit me so well as to find I was mistaken in my estimate of him and I believe I could bring an absolutely open mind to it. One thing one does learn in law is that there are two sides to almost everything.

Now as a practical matter I scarcely know what to do next. I am acutely aware that my informer, or informants, would very much resent being dragged into the matter and I shall not feel at liberty to cite their names. I must, I think, talk with them again and get the facts more accurately into my own mind, always with the danger that they on their part may have grown hazy about these proceedings of a year ago where undoubtedly no written record exists. After that I suppose the thing to do would be to write you a letter stating by way of preamble our previous correspondence and your suggestion that it was only fair to Mr. Forbush that he should be apprised of the statements current concerning him which I could then briefly summarize. Such a letter, if for-

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warded to him, might produce either one of two things: 1) a straight-forward letter of denial, explanation or justification, as the case might be, which would probably clear the atmosphere; or, 2) an outburst of anger, talk of libel suits, or the like. The latter would result in pure loss and no gain. I cannot apply Mr. Forbush's personal equation to the situation, not knowing him.

Serving on the Boston Finance Commission, as I am, makes me more anxious than I otherwise should be to keep out of any public controversy. The same fact makes me even more pressed for time than I formerly was, though I thought the pressure was nearly at its maximum then.

Very truly yours,

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BOSTON, 15th February, 1910.

Mr. William Brewster,
145 Brattle Street,
Cambridge, Mass.

Dear Mr. Brewster:

I enclose carbon copy of letter sent in duplicate to Mr. Forbush and Mr. Field. I have not heard from either of them yet. I have not sufficient time to adopt the more cumbersome method of threshing the matter out which was spoken of between us before.

Yours truly,

Francis N. Balch

Enclosure

2)

Red heads 4 - 2 ♂ 2 ♀ - tame, keeping by themselves however. Don't know when they came in - were not here last Sunday. First I ever saw here but think they have been reported before.

Widgeon 3 - 2 ♂ 1 ♀. Last year we had one pair - ~~they are the~~ who spent the whole Autumn. The year before one. Last Sunday I could only see one. They are the tamest of the wild fowl unless perhaps the mud-hens with which they especially associate, and some of the black duck.

Scaup ducks about 8 - about 5 ♂ & 3 ♀ - flying round in small squads and being more interested in the greater rarities I did not take accurate count. Last Sunday there were 4 - 1 ♂ 3 ♀. For last two or three years we have had a few each fall but I never saw so many.

Old Squaw? - 3 - ? 1 ♂ 2 ♀. These were far out in the middle of the pond and stayed there. I put a question mark because there is a bare possibility they were pin-tail. But they carried their heads very low and I thought that on the cock bird I made out the Old Squaw pattern. On the other hand I could not see that they dove at all.

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Jamaica Plain

Nov. 13, 1910

William Brewster, Esq.

Dear Mr. Brewster

I thought you might like to hear what wild fowl I saw on Jamaica Pond this morning as it was quite an unusual assemblage for us, though I dare say on the Reservoir or at Spy Pond you could watch it.

Besides the tame fowl (swans, European and American; Canada geese; mallards, black duck and hybrids) I saw the following: -

Canvas back - 1 ♂, the first reported from this Pond as far as I know, certainly the first I have seen. He dropped in about 11 A.M. and appeared in good condition and lively though not diving at all as far as I could see. Reasonably tame. Keeping pretty much by himself most of the time - associating with the black duck quite as readily as with next.

In other years we have had now and then a single
Pintail but I never saw Oldsquaws on the
Pond before though Scoters occasionally come in.
I dont feel much doubt there were Oldsquaws.

Ruddy ducks ?? about 5. There was a small
flock of small ducks out in the
middle, diving busily, which looked
to me like the bunch of Ruddies
which were here last fall but they
were too far off to make identificat-
ion sure, though I think its probability
great.

Black duck, wild, ^{considerable} ~~great~~ numbers (say 75?) I
can not tell the wild from the tame with
certainty towards the end of the season when
the strangers have learned their safety.

Mud hens — many (say 40?) — more than I ever
saw before though we have one or two dozen
each autumn of recent years.

All identifications not-queried are absolutely beyond
question. It is a great pleasure to me to see the growing
numbers and variety of fowl in the Pond each year.
I have never seen Gadwall, Shoveller, wood duck or
(curiously enough) Teal, there. Have never seen wild geese
there in day time though they sometimes come in at night.
Whistlers and Suffle-heads are extremely rare. So are
gulls. Is this your experience at Cambridge?

4) [Aug. 27, 1910]

Last summer, while dredging in Fenwick Bay, Maine, I
landed on Marshall's Id. for a few hours shooting (above birds)
which I was assured was good there. It was not — I don't
believe it ever is in the conditions are not right. But I was in the
water in the bays though I know nothing to speak of about
them. The island had been recently timbered (two or three years)
and is covered with the smaller trees and "beak" lying as they
fall. It is also covered with hawks and eagles. I saw more in
the 2 or 3 hours I was there than I saw all the rest of the
summer put together. A pair of golden eagles were driven off
by our ~~approach~~ ^{approach} and flew south. A very few minutely looked
like our another pair north of us. It may have been the same
pair but I think not — we were in the boat sweeping the island with
our glasses during the interval. Still hawks were in great abundance.
There were a few sparrow hawks. I do not know many of the others
by sight in the field I regret to say, but hawks of medium size were
fairly in profusion. At a moment when they were not particularly numerous
I counted 26 in the air at once in our immediate neighborhood. The woods were
full of them hovering. I have no exact count but no doubt the
hawks seem that morning were over rather than under 200 making full
allowance for some ones repeatedly seen. I believe from the total 100

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Could have been counted in the air at one
time. One shot proved to be a not quite mature
Swainson's. Something in the local conditions
strongly attracted them. In beating the brush I
noticed no special abundance of small birds or
mammals. It occurs to me that probably the
felling of the thick soft-wood growth and the
covering of the ground with trash left ideal hunting
conditions for sight-hunters. Is the gathering of
hawks over such territory an old observation?

There was another interesting instance of
hawk behaviour which I counted quite an
adventure and should like to tell you of. But
it is too long for an already over long letter.

Very truly yours

Francis N. Salch