

QUAIL HUNTING: BIG BUSINESS IN EARLY OKLAHOMA

By Lonnie E. Underhill and Daniel F. Littlefield, Jr

The common bobwhite quail, the *Colinus Virginianus*, appears in the history of the Oklahoma and the Indian territories much like the passenger pigeon, the wild turkey, and the prairie chicken, as a staple in the diet of the Indian and the white settler. It was not long, however, until the demand for the bobwhite was not restricted to local consumption, and his tasty flesh soon became known to the Americans living in the East. Meat packing companies sent their hunters into the Territory and began taking thousands of the birds which were shipped to various points and prepared for eastern markets. At first they did the hunting themselves, and later as business grew and the demand for the delicacy became greater, settlers in the Indian Territory were offered attractive fees to bring quail to designated points where company representatives would purchase them. It is ironic that one of the earliest references to quail in the territorial newspapers was an advertisement in the *Cherokee Advocate* on January 18, 1879, whereby one Charles Fredericks of Brooklyn, New York, offered "to buy live quail in large numbers to be delivered to express company at railway depot."¹ Fortunately, the bobwhite's plight in Oklahoma was not like that of the passenger pigeon, which became extinct, or like that of the wild turkey, which became all but extinct in Oklahoma. He somehow held his own despite the heavy demand placed on him by his predators and hunters.

Pioneers in the territories reported habits of the quail they found habits which seem strange to us today. The quail were said to have been numerous and almost as gentle as domestic chickens are today. It was no task at all for an early settler to have quail to eat most of the time.² When

¹ The *Cherokee Advocate*, January 18, 1879, p. 3.

² *Indian-Pioneer History*, Indian Archives Division, Oklahoma Historical Society, Oklahoma City, Oklahoma, Vol. CXIII, p. 494, hereafter cited as *Indian-Pioneer History*.

farmers fed their chickens and cattle, they often had to run quail away from the feed troughs.³ These birds were often considered pests that ate grain crops planted by the early settlers. After a crop was harvested and stored in a barn, quail would fly in large flocks to the barn to feed in the evenings, and if a farmer had a shotgun, he could easily take a dozen to his kitchen for his next meal.⁴ And so the story goes.

The quail were distributed generally throughout the state.⁵ Interviews with pioneers consistently reflect the same general idea about the quail's numbers. "Game was abundant in those early days, especially quail. We never thought they would become scarce." Reports were similar from all over the Indian Territory. Quail were found in large quantities in the Cherokee Nation, the Choctaw Nation, the Osage Nation, the Cheyenne and Arapaho country, the Chickasaw Nation, and Caddo, Kiowa and Comanche lands. They were also numerous in the Oklahoma lands.⁶ In short, quail were in the Territories by the thousands, and had it not been for such great quantities of game in those early territorial days, many of the settlers would never have survived because money and supplies were hard to obtain. Surveyors who platted the country depended on wild game and quail for all of their meat. The birds were not afraid of a gun and would not fly

³ *Ibid.*, Vol. XXIII, p. 161.

⁴ *Ibid.*, Vol. XLI, 168.

⁵ For a discussion of the distribution of quail, see the thorough study in George Miksch Sutton, *Oklahoma Birds* (Norman: University of Oklahoma Press, 1967), pp. 138-143.

⁶ For references to these localities, see *Indian-Pioneer History*, Vol. II, p. 196; Vol. XLVII, p. 165; Vol. XLVII, p. 283; Vol. LXII, p. 275; Vol. II, p. 196; Vol. XLVIII, p. 287; Vol. XLVIII, p. 347, Vol. II, p. 275; Vol. XI, p. 42; Vol. XIV, p. 236; Vol. CV, p. 407.

For newspaper references, see *The Stillwater Advance*, December 19, 1901, p. 6; *The Muskogee Times-Democrat*, January 11, 1906, p. 5; *ibid.*, December 12, 1906, p. 3; and *ibid.*, January 8, 1908, p. 5; *The Cheyenne Transcript*, August 13, 1883, p. 7, and October 28, 1883, p. 8; *The Edmond Sun-Democrat*, October 28, 1897, p. 1, and *ibid.*, April 5, 1895, p. 1. Also, see *The Lawton Constitution*, January 12, 1905, p. 2; *The Norman Transcript*, November 30, 1889, p. 3, and November 9, 1894, p. 5; *The Eagle-Gazette* (Stillwater), November 15, 1894, p. 2; and *The El Reno News*, November 13, 1896, p. 2.

unless one of the men walked too close to them. Early soldiers depended upon quail and other wild game, too. Hogs and chickens were often unavailable to early settlers, compelling them to depend on quail and prairie chickens, a good substitute for domestic fowls.⁷ With quail nesting in settlers' front yards and feeding with their chickens, they soon became an important addition to the families' larders. In fact, the demand for quail as food for the citizens of the Territories never ceased.

Had the demands for the quail ended with the needs of the citizens of the Territories, the history of the quail in early Oklahoma would have been a simple story. But such was not the case. The quail became another animal resource of the new land that was abused and quickly reduced in numbers. That abuse was one of the many ills that the railroads brought to the land. Fortunately, railroads were late in coming to the Indian Territory. The Missouri, Kansas, and Texas Railroad was built across the Territory in 1871-72, and the Atlantic and Pacific junctioned with it at Vinita in 1872. It was nearly a decade and a half before any more railway lines were to enter the Territory.⁸ The new railroads provided rapid transportation of goods to the North and East. Among the products shipped out of the Territories was fresh game, including the quail.

By the 1880's abuse of the quail and its shipment out of the Territories to eastern markets became the concern of the population. The Territories by this time had become well-known as game reserves, attracting hunting parties from several states. Every year the hunters came with better weapons and better dogs, until the killing of quail and other game was made easy. They came and shot the quail by the hundreds, merely for the sport of killing, and commercial hunters came and shot or captured the quail by the thousands for shipment to eastern markets. And there was waste. Reports

⁷ *Indian-Pioneer History*, Vol. XXIII, p. 159; Vol. CVIII, p. 57; and Vol. LXVI, p. 295.

⁸ Joseph B. Thoburn, *A Standard History of Oklahoma* (New York: The American History Society, 1916), Vol. I, p. 435.

began appearing in newspapers that hunters were killing large numbers of animals and letting them rot where they dropped.⁹

The capture of large quantities of quail is difficult for the modern hunter to imagine. He knows that when he walks, unsuspectingly, upon a covey of quail or flushes a covey after his dog has firmly set them, his heart rises into his throat for several seconds. The covey will likely be a small one, and each time the birds flush differently, testing the hunter's skill and giving him an experience difficult to describe. So, when early day hunters spoke of the quail being gentle as domestic fowls and of capturing them in nets, modern hunters have difficulty in comprehending such matters. Again, it was perhaps the newspapers that spurred the interest in netting or trapping quail. One journalist, for instance, published a short article in 1883 to the effect that parties with a net had caught over 200 full-grown quail without any apparent thinning of the ranks.¹⁰

There were several ways in which quail were netted. First, the quail were gentle and could be driven into areas where nets had been stretched on the ground, ready to be sprung. They were caught in this way by the thousands, cleaned, and packed in barrels for shipment to the East.¹¹ Second, after the nets had been set, someone who was skilled in whistling like the quail could call great numbers of them into the area where netters would gently capture them.¹² An interview with Robert Meigs in 1937 gives a third method of netting quail.¹³ According to Mr. Meigs, the coveys of quail were very numerous, and two hunters could prepare a net suitable for catching great numbers of the birds. Hunters would walk or ride horses back and forth across a field until a covey was

⁹ *The Indian Journal* (Muskogee), August 14, 1884, p. 4.

¹⁰ *The Cheyenne Transporter*, October 28, 1883, p. 1.

¹¹ *Indian-Pioneer History*, Vol. CV, p. 407

¹² *Ibid.*, Vol. LI, p. 320.

¹³ *Ibid.*, Vol. LVI, pp. 108-108.

spotted. After the birds were located, the hunters would retreat, circle around them, and get in front of the covey and stretch their enclosed nets in a "V" with sides of twenty feet, the open end of the "V" towards the covey. After the net was set, the two men went back to their original positions and began making slight noises, whistling, slapping their legs, or rapping two sticks together. The covey would begin to move away from the hunters, who by movements of their own could control the direction of the covey and could drive the birds towards the nets.

There were times, however, said Mr. Meigs, when the birds would halt and would not move for several minutes at a time. During these waits, the netters stopped their movement and waited patiently for the birds to resume their movement. Attempts to hurry them usually resulted in their taking flight. Consequently, the netters remained at some distance from them, continuing to whistle or rap sticks, and at length the leading quail would start forward again, followed in single file by the remainder of the flock. Once the birds started again, they rarely would stop until they were inside the net. Usually, a smaller net was placed inside the larger one in which the quail would be secured. An entire covey could be trapped easily in this manner. Often, more than one hundred quail were caught in one setting of the nets. One hundred twenty birds were caught on one occasion by two men in the Park Hill vicinity, according to Mr. Meigs. Once captured, the birds were then taken from the net and placed in coops and small movable pens where they soon lost their shyness and ate the same grain that was fed to domestic fowls. Mr. Meigs recalled instances in which two coveys of quail were caught at the same time when a covey being directed toward the net ran onto a second covey in front of them; the second covey fell into the single-file column and went along with the first. Occasionally, netters experienced disappointment when a good-sized covey of birds suddenly took flight at the entrance of the net. Thus, netters preferred calm and not extremely cold weather, or, better still, quiet and cloudy days with drizzle since the birds were not as inclined to fly then as they were under other conditions. As population increased and more firearms were used in quail hunting, the

birds decreased in numbers. They became so wild that they seldom could be netted.

Besides nets, other trapping devices were several types of still traps in which a triggering device would support a box or coop. The quail would trip the mechanism and trap themselves. Often a trap such as this would yield from one to three dozen birds a day.¹⁴ Hunters who captured live quail kept them alive until a shipment was on hand, and at that time they either boxed the birds in live boxes or cleaned them and placed them in barrels of brine and shipped them to St. Louis and other northern cities for further shipment to the East. Dressing birds for market usually included removing the entrails, head, feathers, and feet. To keep the quail from spoiling, each day's kill was kept in separate barrels of brine. Each cleaned bird was placed breast-down in the barrel so that after the flesh had become stiff and firm and the bird was ready for shipment, the bird would have a fresh appearance and bring a better price on the market.¹⁵

Prices for quail varied from time to time, but the following accounts given by people who knew the business will give the reader some idea of the profits which were made hunting quail and of the places where the game was marketed. Men such as L. W. Altum made their livings solely from the sale of game. Between 1889 and 1894 Altum and two other men traveled through the Territory from Oklahoma City west to the Texas line, killing a variety of game, which, in the summer months, was picked up daily by a game buyer from New York City. The game was iced and shipped to the east. In the winter months, these men did not sell game under contract, as a rule, but rather they hauled their game to Canadian, Texas, and later Waynoka. Since market was usually a two days' journey by wagon, the hunters usually had a full load when they went to market. Game prices varied, but an average price included two dollars

¹⁴ *Ibid.*, Vol. LXVIII, p. 38. For discussions of these types of traps, see also *ibid.*, Vol. X, p. 105, and Vol. LXI, p. 135.

¹⁵ *Ibid.*, Vol. CVI, p. 99-100.

for a small deer, four dollars for a large buck, fifteen cents apiece for prairie chickens, and a dollar and half for a dozen quail.¹⁶ A man named Thad Slaughter sold quail for a dollar per dozen, which earned him as high as sixty dollars per month during the fall and winter. He claimed that many of the settlers in the Oklahoma Territory made more from selling game than from any other occupation.¹⁷ L. A. Crabtree killed quail with a shotgun and sold them at a market in Quanah, Texas, for seventy-five cents per dozen. Robert Kittrell sold his game to markets in Fort Smith or traded it for merchandise. Henry M. Johnson netted quail and sold them each Saturday, live, to buyers in Pauls Valley. T. W. Morton sold fowl to buyers who took them to Kansas City, one of the major game markets there was that of the Beggs Brothers. A man named Sherrill sold his game at Denison, Texas.¹⁸ Clint Smith earned as high as \$2.50 per dozen for quail which he shipped to Kansas City. J. T. Sheppard bought quail in Purcell and shipped entire train car loads at a time. J. T. Coleman sold quail for \$2.50 per dozen to a man named McBroom who bought for the Gray Produce Company in Chickasha. The Gray Produce would in turn resell to eastern markets for \$6.00 per dozen. At various times in the Comanche Country quail sold for \$3.00 per dozen, in the Guthrie area markets for \$2.50 per dozen, and in the Chickasaw Nation for seventy-five cents per dozen.¹⁹

Thousand upon thousands of quail, along with other game, were shipped annually from the Indian and Oklahoma Territories, from the coming of the railroads until statehood. At no time was such traffic in game legal, but the governments of the Territories seemed powerless to stop it,

¹⁶ *Ibid.*, Vol. XII, p. 305.

¹⁷ Ralph H. Records, "Recollections of April 19, 1892," *The Chronicles of Oklahoma*, Vol. XXI (Spring, 1943), pp. 23-24.

¹⁸ *Indian-Pioneer History*, Vol. XXI, pp. 137-138; *Ibid.*, Vol. VI, p. 129; Vol. V, p. 456; Vol. XXXVII, p. 295; Vol. LXII, p. 275; Vol. LXX, p. 483; Vol. XLIV, p. 359. Kansas City is also listed as a market for game in *The Edmond Sun-Democrat*, December 1, 1899, p. 2.

¹⁹ *Indian-Pioneer History*, Vol. CIX, p. 397; *Ibid.*, Vol. LX, p. 232; Vol. LIV, p. 494; Vol. XC, p. 112; Vol. XVI, p. 120; Vol. XVI, p. 72.

however hard they might try. No sooner had the railroads come than the tribes of the Indian Territory found it necessary to protect their game from hunters from the United States. For instance, in 1875 laws were passed forbidding non-citizens to hunt in the Choctaw and Chickasaw Nations. However, renters of land and immigrant laborers in the Choctaw Nation could hunt for food but could not hunt as a business. The National Council of the Cherokee Nation passed a similar act on December 5, 1877, which became law ninety days later.²⁰

The United States also had laws protecting the game in the Indian Territory. Section 2137, page 373, of the *Revised Statutes* read that, "Every person other than an Indian who within the limits of any tribe with whom the United States has any existing treaties hunts or traps or takes and destroys any peltries or game, except for subsistence in the Indian Country shall forfeit all the traps, guns, and ammunition in his possession, used or procured to be used for that purpose, and all peltries so taken, and shall be liable in addition to a penalty of \$500."²¹

Despite such laws as these, the hunters became more numerous. Some were granted permits by the Indians to hunt for pleasure, but most were poachers. The former often abused the privileges granted them by the Indians while the latter despoiled the land for profit. In the 1880's the problem became critical. On August 14, 1884, Agent John Q. Tufts of the Union Agency published the Federal statute above and then requested the officials of the Indian Territory to arrest all sportsmen found violating the act and asked that the Indians cooperate with him toward enforcing it. Parties who acted reasonably would not be molested, he said, but anyone who persisted in the ways that had been reported would pay the full penalty of the law he had just cited.

²⁰ *The Vindicator (Atoka)*, November 24, 1875, p. 1; and December 6, 1875, p. 4. See also, *The Cherokee Advocate*, April 13, 1878, p. 3.

²¹ *The Indian Journal (Muskogee)*, August 14, 1884, p. 4.

Measures to enforce the unnecessary killing of quail and other game had been enacted, it then became necessary to enact a law against the shipping of game beyond the limits of the Indian Territory. In 1885 the Cherokee Nation wrote an act as follows. "Be it enacted by the National Council that it shall be unlawful for any citizen of the Nation to ship or transport in any manor [sic] beyond the limits of the Cherokee Nation for the purpose of trade or commerce any game either dead or alive such as deer, quail or prairie chickens and ducks or to sell the same to any non-citizen inside the Cherokee Nation." Violators guilty of the misdemeanor were subject to fine of not less than \$200 for every offense or imprisonment in the National Prison for not less than one year if in default of payment. The district sheriffs were then authorized to seize any non-citizen, together with his arms, ammunition, and means of transportation and to deliver him to the United States Agent for his removal or to turn him over to the United States marshal to be dealt with.²² One newspaper claimed that this act resulted from the "relentless slaughter" of game, chiefly by non-citizens. It also stated that a principal objective of the law was to reduce the number of prairie fires that had been set purposely or by accident by the hunters. For this reason, the act was heartily supported by nearly all of the cattlemen.²³

Evidently, not much interest was taken in the law, for notices were run in the newspapers, reminding the citizens that the killing of game was against the law.²⁴ There was a lack of strict enforcement of the law, which was not explicit in its wording, because local district sheriffs often were puzzled as to what they were legally authorized to enforce. A

²²Indian Archives Division, Oklahoma Historical Society, *Cherokee-Wild Cattle and Game (Tahlequah)*, "An Act to Prevent the Shipping of Game Beyond the Limits of the Cherokee Nation, November 25, 1885" See also *The Cherokee Advocate*, December 4, 1885, p. 2; and *The Muskogee Indian Journal*, December 17, 1885, p. 4.

²³*The Indian Journal* (Muskogee), December 3, 1885, p. 4.

²⁴*The Cherokee Advocate*, February 6, 1886, p. 1.

letter from the Goingsnake District Sheriff in 1887 clearly demonstrates the questions brought about by the measures to check the slaughter of game. The letter states:²⁵

for myself and my nebers, I write to you in regard to permits for citizens of the United States, To come in This Country and catch Pigeons (taken them and ship the same to New York or Boston. I have letters from 4 or 5 of thes men stating that they are coming here to catch pigeons and Qualls to ship East. Some of thes men have got pardners here who gets permits for them and others want me to get them permits to Trap or Net in the Nation. The Clerk of this District has given each permits for 2 or 3 years past but the Cherokees of this part of the Country want it Stopped if it can be. We are all good game and bird killers ourselves and think we can get along without thes United States citizens. Thes men come here get permits for comon labor then they catch all the Pigeons They can, kill all the Deer Turkeys and qualls they can and sen the same East. The Dept. Sheriff of this District wants me to ask you, if you can or will, give the Clerk some instruction on the matter of permits, for United States citizens to come in here and hunt fish trap and Net.

The above letter makes it clear that the Indians were more interested in preventing the United States citizens from hunting in the Territory than they were in stopping the slaughter and sale of the game.

The story was much the same in the Oklahoma Territory. The "Unassigned Oklahoma Lands" were opened to white settlement on April 23, 1889. The settlers found game plentiful, and it was not long until the slaughter commenced. Some seven months after settlement, the following story ran in *The Norman Transcript*:²⁶

Big stories about killing game are now afloat in Oklahoma. A Frisco man is reported to have killed 300 quail on Saturday and Sunday and 86 on Monday. There are millions of the little birds here, but the crop can't hold out long when so many make a business of hunting. The quails come right into town of an evening. It seems as though they ought to find opportunities enough to die out in the country.

A story as innocent as those was interpreted in the following manner: "There are millions of quail in the

²⁵Indian Archives Division, Oklahoma Historical Society, *Cherokee-Wild Cattle and Game* (Tahlequah), William Ueell, et al, to D. W. Bushyhead, September 23, 1887.

²⁶*The Norman Transcript*, November 30, 1889, p. 3.

Territory One man killed 386 in three days' hunting. They even come into town in the evening." Such stories most likely had the opposite of their intended effect and did their share in attracting hunters and game buyers from outside the Territory

There were attempts to control the slaughter of game in the Oklahoma Territory. In 1889, reports of the military's watching for violators of the game ordinances circulated from the Oklahoma City and Fort Reno vicinity.²⁷ Later, in the early 1890's laws were modified to include certain dates when hunting quail would be legal and within season. Legal hunting would take place between September 1 and December 31 of each year, and any person who had illegal game in his possession was subject to a fine of from five to fifty dollars for each offense.²⁸ An 1893 editorial in *The Norman Transcript* demonstrates the support offered by others.²⁹

Please call the attention of the farmers of Cleveland County to the fact that quails are an enemy of the chinch bug and that every farmer ought to do his best to protect the quails from the shot gun. The quails not only live upon the chinch bug, but they protect the orchards and small fruit from being destroyed by the different kinds of worms and bugs that are on the ground under our small vines and fruit trees. I have often been told that every quail on a farm was worth a silver dollar to the farmer. Put up notices on your farms forbidding the killing of all birds on your place and you will save your farms and orchards from being destroyed by web worms and bugs and ten thousand other pests that ruin your fruit and grain crops. C. McKey.

The efforts of the law and the few bird lovers did not, however, stop the slaughter and sale of quail in the Oklahoma Territory just as they had not in the Indian Territory. In 1894, reports from the Perkins area, appearing in two Territorial newspapers, stated that "Quail are so plentiful in the territory surrounding Perkins that they have become a drug upon the market selling for thirty-five to fifty cents a

²⁷ *Ibid.*, December 21, 1889, p. 1.

²⁸ *Ibid.*, August 8, 1891, p. 4.

²⁹ *Ibid.*, September 15, 1893, p. 1.

dozen."³⁰ It is remarkable that such a report as this could be made after five years of unrestricted hunting in the Territory.

Early in 1895, The Territorial Legislature moved to stop the killing of game. A bill was introduced in February and passed in March. The law provided it.³¹

unlawful for any person to wound, kill, snare or trap, in any manner within the territory any deer, buck, doe, fawn, or antelope, any prairie chickens, any grouse, wren, quail, wild turkey, martin, robin, swallow, turkey buzzard, or any insectivorous birds or to pursue the same with any intent, or to have the same in possession, except it shall be lawful to shoot quail and wild turkey between the 15 day of October and 15 day of February of the following year.

The Law also provided that no one could kill or have possession of any wild turkeys, quail, plover, or dove for any purpose except for his own private use as food. Only days after its passage, arrests were made under the new law. A Rock Island train was stopped near Chickasha and the discovery made that one car contained about 5,000 live quail in transit to St. Louis from the Chickasaw Country. Wardens broke open the boxes containing the live birds and allowed them to escape. For a while, the meadows and fields in that area were "fairly swarmed" with birds.

A few months later, a second law was passed making it a misdemeanor, punishable by a fine of not more than \$100, to kill a quail, prairie chicken, or wild turkey in the Oklahoma Territory before November 1. To add incentive to the enforcement of the law, it was provided that half the fine would go to the informant and half to the county in which the arrest was made. Said one optimistic newsman, "This new law will have the effect of replenishing (*sic*) our game reserves and prevent their entire extermination."³²

A year later there was still no apparent diminishing of the

³⁰ *The Edmond Sun-Democrat*, November 9, 1894, p. 6; *The Eagle Gazette*, November 15, 1894, p. 2.

³¹ *The Edmond Sun-Democrat*, February 15, 1895, p. 1; also, March 29, 1895, p. 1, and April 5, 1895, p. 1.

³² *Ibid.*, September 8, 1895, p. 2.

illegal traffic in the wild game. In late October of 1896, the Guthrie authorities found sixty cases of quail in cold storage, but they could find no one who claimed them.³³ And a week later came this story: "There will be trouble in Oklahoma if the hunters don't desist from killing and shipping game out of the territory. Her citizens are indignant over this matter and will prosecute anyone caught violating the game laws."³⁴ Nevertheless, the next spring, it was reported that numbers of plovers, meadow larks, and turtle doves were being killed during nesting season.

Despite the endless killing of them the quail remained in numbers in the Oklahoma Territory. In 1899, the Territorial Legislature revised the statutes concerning game and fish, increasing the amount of the fines that could be assessed. Still hunters persisted, causing one bitter newsman to write, "It is not lawful at present to kill quail in Oklahoma unless they happen to be hydrophobia quail when a hunter had a right to kill them in self protection."³⁵

Despite the law, tons of game were shipped from the Territory each week. Some of the newspapers took up the problem in an attempt to rally the public. Some writers became perhaps overzealous: "In one year not a turkey will gobble, nor a deer raise his antlers, nor a chicken cackle, nor a quail sing and whistle for its mate throughout these forests of Oklahoma if the hunters are to continue scandalous and murderous robbery of our game."³⁶

The hunter had another good year in the Oklahoma Territory in 1899. In late November, the territorial game warden, Whit M. Grant, arrested the local agent of the Armor Packing Company of Kansas City for unlawfully shipping

³³ *The El Reno News*, October 30, 1896, p. 4.

³⁴ *The Edmond Sun-Democrat*, November 5, 1896, p. 4; and September 6, 1895, p. 2.

³⁵ *The El Reno News*, November 13, 1896, p. 2. See *The Edmond Sun-Democrat*, November 13, 1896, p. 4; and October 29, 1897, p. 1. Also see *ibid.*, July 25, 1899, p. 1, and October 20, 1899, p. 1.

³⁶ *The Norman Transcript*, November 16, 1899, p. 1.

quail out of the Territory. The agent had loaded some 5,000 birds aboard a railroad car. He entered a plea of guilty and was fined \$50 and costs. A week later one newspaper carried a report that "great quantities" of quail had been shipped out of the Territory during November, packed in cases marked "dressed chickens." When the season closed at the end of January, 1900, the hunters counted it a successful season.³⁷

Meanwhile, the Indian Territory had also been overrun with hunters, the laws of the Indian nations or the administration of the laws failing to prevent it. In 1896, the Chickasaw and Choctaw Nations revised their game laws.³⁸ But they were of no avail. Two years later, a news item carried this rather barbed statement. "Feathered game is quite plentiful in the Chickasaw Nation just now. So are the hunters."³⁹

The problem was not restricted to the nations of the Civilized Tribes. Late in 1898 Major A. E. Woodson, Acting Indian Agent at Darlington, published an open letter to hunters on the Indian lands under the Darlington Agency. He reminded them that the U.S. Revised Statutes, Section 2137 prohibited hunting on such lands under penalty of forfeiting all guns, ammunition, and equipment, plus a fine of \$500. Section 2147 gave the Indian agents the authority to remove all violators of the law by use of military force if necessary. His letter concludes, "The practice of hunting on such lands that has become so common, resulting in the tearing down of fences, the starting of prairie fires and sometimes loss of stock belonging to the Indians, calls for the strict enforcement of these statutes at the hands of the Indian agents."⁴⁰

³⁷ *The Edmond Sun-Democrat*, December 1, 1898, p. 2; December 7, 1899, p. 2; and February 8, 1900, p. 6. Also, see *The El Reno News*, November 30, 1899, p. 6.

³⁸ *The Hennessey Clipper*, October 22, 1896, p. 1.

³⁹ *The El Reno News*, September 16, 1896, p. 6.

⁴⁰ *The Kingfisher Free Press*, December 6, 1898, p. 1.

The agents did send out orders to the Indian police and the U. S. Marshals to arrest any hunters they found. In 1899 the U. S. Agent J. Blair Shoenfelt issued orders from Union Agency to the Indian police to seize all the guns, traps, ammunition, pelts, and game of all those people found hunting in violation of the law and to impound them in the custody of the Indian agents. He informed the hunters that a fine of \$500 was to be imposed upon the violators.⁴¹

As allotment moved closer to a reality, the tribal governments became weaker, and more responsibility for administration of the law fell to the agents. Shoenfelt worked steadily at the prevention of the destruction of game. He ordered the arrest of hunters and the confiscation of their equipment if they did not obtain hunting permits through his office, and during the year of 1901 he directed an all-out effort to stop the hunters.⁴² Many newspapers, both in and out of the Territory, supported him. But Shoenfelt's force was "entirely inadequate" to patrol the Territory, and many officials were charged with "winking" at violations of the law.

Hunters from Texas overran the Chickasaw and Choctaw Nations, and throughout the Territory hunting continued with little restriction. In late 1901, Captain J. W. Ellis, chief of the Indian police, captured 433 quail at South McAlester. They were in an express company, consigned to a Chicago firm. In March of 1902, the field Deputy Marshal at Purcell was ordered to confiscate all quail or other game in the possession of local dealers. This was not a welcome event to the game dealers of Purcell, one of the main points from which game was shipped to other parts of the country. The city did an annual business of \$40,000 in game.⁴³

⁴¹ *The Vinita Indian Chieftain*, January 4, 1899, p. 1; *The Kingfisher Free Press*, November 23, 1899, p. 6.

⁴² *The Cherokee Advocate*, January 5, 1901, p. 1; *The Muskogee Evening Times*, October 8, 1901, p. 1; October 14, 1901, p. 2, and October 21, 1901, p. 3. *The Vinita Chieftain*, October 15, 1901, p. 4.

⁴³ See *The Muskogee Evening Times*, January 8, 1901, p. 3; May 20, p. 2; June 3, 1901, p. 2; October 7, 1901, p. 2; and October 12,

In 1902 reports showed that 200,000 quail were shipped out of the Territory during the 1901 hunting season. And from this time until after statehood, the commercial hunting of quail continued. Occasional confiscations yielded two or more barrels of quail, and in 1905 a confiscation of 1,000 quail was made at Enid. If conviction for the shipment during a closed season were obtained, the offender could have had fines imposed at a rate of \$25 per bird, or a total of \$25,000. The birds in Chicago would have brought only \$500. Early in 1906 it was reported that "a number of quail" had been shipped out of the Choctaw Nation and that a U. S. Marshal had confiscated at Chickasha 700 live quails consigned to Wichita. And in December, 1906, at Okeene officials confiscated what was considered the largest shipment of contraband quail ever held up in the Territory. The game filled an entire car on the Rock Island Railway. Packed in egg cases were an estimated 20,000 birds. The game had been shipped by the Okeene Produce Company and consigned to Coin and Company of Chicago as a shipment of "dressed" poultry and eggs. The shipper was one Paris Rupert who had been arrested on the same charge at other times. He had, in fact, paid nearly \$2,000 in fines the year before.⁴⁴ Rupert was to figure prominently later in a significant court case regarding Oklahoma game laws. An interesting sidelight on this story is that during the time the shipment was in a cold storage plant in Enid, where game warden Eugene Watrous had stored the one hundred fifty-five cases of confiscated quail, the watchman he hired removed about five hundred birds and then disappeared. Although this confiscation was a record, the record did not have long to stand.⁴⁵

1901, p. 2; October 8, 1901, p. 1; and October 19, 1901, p. 1, April 20, 1901, p. 3; September 28, 1901, p. 2; September 30, 1901; and October 4, 1901, p. 2; *The Cherokee Advocate*, October 19, 1901, p. 1; *The Stillwater Advance*, December 19, 1901, p. 6; *The Indian Journal* (Eufaula), March 7, 1902, p. 2; *The Muskogee Evening Times*, October 4, 1901, p. 1, says that the banks at Purcell paid out \$41,000 for live quail each year.

⁴⁴ *The Daily Oklahoman*, September 13, 1902, p. 2; *The Headlight* (Sayre), March 2, 1905, p. 3; *The Muskogee Democrat*, January 11, 1906, p. 6, and February 12, 1906, p. 4; *The Muskogee Times-Democrat*, December 3, 1906, p. 2; *The Mangum Star*, December 6, 1906, p. 1.

⁴⁵ *The Mangum Star*, December 13, 1906, p. 1.

On January 8, 1908, Deputy State Game Wardens confiscated 7,500 quail at Clinton, arresting F. J. Lyon of Chicago who had been operating in the area since 1906. The Wardens had confiscated some 20,000 birds during the preceding thirty days. And then on January 21, the sheriff at Enid found 20,000 quail packed in egg cases at the Rock Island depot. They were billed out to Chicago, but there was no shipper's name given. Some of the quail were distributed among the poor and the rest sold in Enid and Oklahoma City.⁴⁶

Since railroads served as the primary mode of transporting the shipments of quail, live quail were often confiscated en route in a rather unusual way. Law officers would obtain a good bird dog and wait at the railway stations for trains to arrive. When the train stopped, the dog would be allowed to scent the express cars. On one occasion, three thousand birds were being shipped from Okeene to a commission house in Chicago. Expecting such a shipment, officers put a dog on board the train, where he immediately went on "point," indicating the presence of quail. Six barrels of dressed turkeys were near the door, and the quail were packed in egg cases in a refrigerator car. Of course, since quail hunting was such a big business, shippers tried all manner of smuggling the game out of the Territories, including shipping them in coffins. Usually, the officers with dogs could stop such shipments if they had any suspicion that such shipments were about to take place.⁴⁷

It was some thirty years after the first game legislation was passed in the Territories that the Oklahoma law forbidding the shipment of slaughtered wild game out of the state was upheld by the United States Circuit Court of Appeals. In a decision at St. Louis, the Court affirmed the conviction of Paris Rupert, convicted on four counts of

⁴⁶ *The Muskogee Times-Democrat*, January 8, 1908, p. 5; and January 21, 1908, p. 6.

⁴⁷ Eugene Watrous, *Indian-Frontier History*, Vol. LXXV, p. 128 (Watrous was an early game warden in the Oklahoma Territory). *Ibid.*, Vol. XVI, p. 120.

shipping 12,000 quail from Blaine County, Oklahoma, to Chicago in 1905 and fined him \$100 on each count. The case was a celebrated one and had much greater importance than the amount of the fine involved. It was generally understood that brokers and commission men handling such commodities joined in the fight in order to get a settlement of the question involved, the right of a state to interfere with the interstate commerce to the extent of refusing to allow game to be shipped out of the Territory. The Court of Appeals concluded in the Rupert case:⁴⁸

The territory of Oklahoma had the authority to provide by legislation as it did, that wild game such as quail, should not be shipped out of the state even though the game was killed during the open season. The act of Congress is valid where in it is declared that the shipment out of the territory in violation of the territory laws constitutes a crime under the national laws; and to aid in the detection of such crimes, congress had the authority to provide that all such interstate shipments should be plainly marked so any person by a casual inspection would know the contents of the package.

This case reflected the change in attitude toward game laws which had begun with statehood. With statehood had come more effective legislation. A State Game and Fish Warden's office was established, but it was hampered during its first few years by a small budget. Laws were passed requiring hunting licenses or permits which could be purchased from the county clerks or the state game and fish warden. In 1913 The Oklahoma state laws were bolstered by a federal law, the McLean Act, which became effective on October 1, after which it took "precedence over all state laws for the protection of game."⁴⁹

Fortunately, the State of Oklahoma finally had adequate laws and effective enforcement for protection of quail and other game birds. Perhaps more fortunate for the quail was his size and feeding habits. As his ranks thinned and he became wary, he was hunted with the gun. His speed and size made him a difficult target. Because of his feeding habits, he

⁴⁸ *The Daily Oklahoman*, April 14, 1910, p. 20.

⁴⁹ *Vinita Weekly Chieftain*, August 14, 1901, p. 8; *The Indian Journal* (Eufaula), September 19, 1913, p. 5.

was able to live alongside of man as the latter followed his agricultural pursuits, and the little bird could survive on the seeds of the domestic grasses that replaced the wild ones. Unlike the passenger pigeon, he did not depend on the great forests (particularly the beech forests) for mast. When the forests were gone, the quail, unlike the passenger pigeon, did not become extinct. Neither did he need the deep reaches of the forest for cover as did the wild turkey, which became nearly extinct. Nevertheless, the quail in Oklahoma history occupies the same unfortunate position as the pigeon, the turkey, and other game—a part of the earth's bounty abused by thoughtless, and very often greedy, men.