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## Resolution 1968-01-23 States' Jurisdiction Over Fish and Resident Wildlife

Association of Fish and Wildlife Agencies

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came to the conclusion that there was such a divergence of opinion in this regard that we would not bring a resolution to you for consideration.

**Mr. Shannon:** Harry, this Resolution Number 1, so that we know exactly what we did, as I recall we okayed it with a provision that Nick Olds look into the International treaty situation. Do we have to go for it now or not go for it? I don't know whether Nick has looked over it, and has a recommendation. Do you know on this, on Resolution Number 1? Do you think the resolution is properly worded, Nick?

**Nick V. Olds, Michigan:** Well, it restricts itself just to the migratory birds.

**Mr. Woodward:** As it is worded, it refers only to the International treaty on migratory birds. This is the only one that we've had in mind these many months when we have been drafting these bills.

Now, so far, no one has raised the question that there are other treaties that might be involved. Of course, you heard this morning Mr. Hartzog referring to these inter-continental treaties which might or might not imply the salmon treaty. I don't know enough about it to express a view one way or the other as to whether it is applicable. So, why don't we just say "Migratory birds or other applicable treaties". Make it very general, and then, if there are other treaties that might be applicable, then, they are included.

**Mr. Shannon:** Do you think we might get involved in a New Mexico case in this thing if we say "Other applicable"?

**Mr. Olds:** This has to do with the exceptions that are contained in the bills, you know, and actually these whole list of exceptions are the list that are in the bills, that are before Congress. And I see no harm, just very generally, saying that. Of course, State law is superior to any treaty. But it has to be an applicable treaty. This is what the point is I am making.

**Mr. Woodward:** Is it necessary to change the resolution?

**Mr. Olds:** No.

**Mr. Shannon:** It is necessary to change it when, as I understand it, when it was voted upon Nick was supposed to look into the situation. I wasn't clear whether it meant later or in reference to this resolution. So, you have, unless there is no objection, we will assume that the resolution is adopted as written. Okay. With the change that was made earlier which doesn't have to do with this.

**Mr. Shannon:** I certainly want to thank you, Harry, and the members of the resolution committee. This is a tough job, one of the toughest that we have when we meet. And you have certainly done a wonderful job.

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The Resolutions as adopted at the convention in Tucson, Ariz., Sept. 13, 1968, follow:

#### RESOLUTION NO. 1

##### STATES' JURISDICTION OVER FISH AND RESIDENT WILDLIFE

Whereas, dispute has arisen with respect to jurisdiction of the states over fish and resident wildlife on lands owned by the federal government; and

Whereas, this dispute has resulted in litigation between the State of New Mexico and the Secretary of the Interior which is now pending in the federal courts; and

Whereas, the International Association of Game, Fish and Conservation Commissioners has previously endorsed and Congress is now considering legislation that would reaffirm the jurisdiction of the states in this area; and

Whereas, the Secretary of the Interior on June 17, 1968 issued a statement of general departmental policy with respect to fish and resident wildlife on Interior-administered lands; but

Whereas, fundamental differences still remain both as to matter set forth in the Secretary's statement of general policy and as to matter not covered therein:

Now, therefore, be it resolved, that the International Association of Game, Fish and Conservation Commissioners, while commending the Secretary of the Interior for attempting to resolve this dispute, urges the Congress to enact legislation reaffirming the historic jurisdiction of the states over fish and resident wildlife in order to accomplish a firm and complete resolution of this dispute; and

Be it further resolved, that the International Association hereby desires to make it abundantly clear that it does not seek to affect in any way the following:

1. Any international treaty involving the regulation of migratory birds.
2. Fish and wildlife now protected by the Rare and Endangered Species Act.
3. The Bald Eagle Act.

4. Rights of Indians and rights of natives of Alaska to hunt and fish as established by treaties or Acts of the Congress.
5. The management of lands or control over wildlife species which have been ceded by any state of the United States.
6. The Federal responsibility for conserving and developing fish and wildlife habitat on Federal lands.

#### **RESOLUTION NO. 2**

##### **FIREARMS LEGISLATION**

Whereas, the Bill of Rights assures that the right of law-abiding citizens to bear arms shall not be infringed; and

Whereas, the 17 million persons possessing and using firearms for management and utilization of the nation's wildlife resources constitute a major economic and recreational value and provide the dominant financial support for protection and management of the nation's wildlife resources; and

Whereas, the degree and type of firearms control needed vary considerably among the states because of differences in population density, social attitudes, law enforcement capabilities and other factors; and

Whereas, legislation is now pending before the Congress of the United States for individual gun registration which will cost billions of dollars to administer; and

Whereas, the International Association of Game, Fish and Conservation Commissioners is deeply concerned by proposed legislation that attempts coercion for passage of firearms registration by the states with threats of withholding monies derived from the federal tax on arms and ammunition:

Now, therefore, be it resolved, that the International Association of Game, Fish and Conservation Commissioners urges the Congress to limit additional federal controls to strong penalties against the use of firearms in committing federal crimes and the prohibition of interstate transportation in violation of state law, leaving any further restrictions to be established by the states.

#### **RESOLUTION NO. 3**

##### **HIGHWAY CONSTRUCTION**

Whereas, fish and wildlife are natural resources that are enjoyed and utilized by all Americans; and

Whereas, preservation of fish and wildlife habitat must be taken into consideration during highway construction if these resources are to be conserved and perpetuated; and

Whereas, Senator Metcalf of Montana withdrew S.468 (a bill related to highways for the purpose of protecting fish and wildlife and recreation resources which was introduced in the First Session of the 88th Congress) with the understanding that the administrative procedure outlined by the Highway Administrator in Instructional Memorandum No. 21-5-63, issued June 12, 1963, would make legislative action unnecessary; and

Whereas, many states are continuing to experience severe losses and damage to fish and wildlife resources through highway construction in spite of Instructional Memorandum No. 21-5-63:

Now, therefore, be it resolved, that the International Association of Game, Fish and Conservation Commissioners urges national legislation to prevent damage to fish and wildlife resources from highway construction; and

Be it further resolved, that the language of such legislation assure the state wildlife agencies' authority to evaluate the impact of highway construction on fish and wildlife resources at the earliest possible point in the planning process in order to make necessary decisions and recommendations to minimize damage to these resources; and

Be it further resolved, that such legislation provide nonreimbursable funds for mitigation of losses, and insure adequate recognition of the state wildlife agencies' decisions and recommendations.

#### **RESOLUTION NO. 4**

##### **RECLAMATION LAW**

Whereas, the rivers, streams, lakes, and reservoirs of the United States are major elements in the rapidly expanding tourist and recreation industry; and

Whereas, public demand for water related recreation is great; and

Whereas, the Bureau of Reclamation of the U. S. Department of the Interior and U. S. Army Corps of Engineers are now planning and propose to construct a massive system of dams and appurtenant facilities for a wide variety of purposes; and

Whereas, the proposed water developments will have a major impact on existing fish and wildlife resources; and

Whereas, the complex array of laws establishing rules under which these multiple use irrigation projects are justified allows profits from down-stream power sites to heavily subsidize only one of many uses of water stored in the projects, namely irrigation; and

Whereas, other uses of water such as municipal, industrial, recreational, fish and wildlife are of far greater importance to the nation's well-being now than they were when the reclamation law was first established; and

Whereas, this power subsidy for irrigation only does not allow consideration of projects benefiting other water uses comparable to the consideration given projects benefiting irrigation:

Now, therefore, be it resolved, that the International Association of Game, Fish and Conservation Commissioners urges the Congress of the United States to review and revise all the laws regulating the allocation and repayment of costs of federal water projects in the light of the changed importance of the various multiple water-use interests to determine if power subsidies for irrigation are still in the best national interest, and if they are, whether such subsidies would not also be in the best national interest for other important water uses, including fish, wildlife, and recreation.