

courts should be with full knowledge, dispatch, courtesy and confidence. He should present his case in a clear, active and informative way.

IN THE FINAL ANALYSIS, the conservation officer is faithful, fair and friendly, respectful, resourceful and reverent, with good ideas and ideals, noble in purpose, devoted to duty, sincere and sound in his contacts, helpful in his daily duties, independent in his thoughts, interdependent in his actions, then he will be praiseworthy, and the light he reflects will redound to himself, his associates and the cause of conservation and the protection of our wild life resources, and then conservation will be on its way.

The law is a good hing. The immortal Abraham Lincoln once said:

“Let reverence of the law be breathed by every mother to the lisping babe that prattles on her lap; let it be taught in schools, seminaries, colleges, let it be written in primers, spelling books, and almanacs; let it be preached from the pulpits and proclaimed in legislative halls, and enforced in courts of justice; let it become the political religion of the Nation.”

MAY I SAY TO YOU

WE MUST KEEP STEP, NOT MARK TIME—THE COURTS ARE OUR PROVING GROUND.

THE MIGRATORY BIRD AND GAME MAMMAL TREATIES

By HARTWELL DAVIS

United States Attorney, Middle District of Alabama
Montgomery, Alabama

I will here discuss briefly the reasons for the treaties, the operations and benefits derived from the treaties, and the enforcement of the enabling acts which constitute the machinery for their enforcement.

The long and futile efforts of the states finally convinced state game commissioners, sportsmen, conservationists, and others, that the uniform and adequate preservation of migratory birds and an equalization of hunting opportunities depended upon the exercise of a supervisory jurisdiction on the part of the Federal Government. To this end, a bill was introduced in Congress in 1904, but it was so novel in its objects and legal character that it failed of passage. From the time of its introduction, however, the subject was kept before Congress in one form or another almost continuously until the enactment of the Migratory-Bird Law of 1913.

This Federal Statute merely conferred on the United States Department of Agriculture the power to fix closed seasons during which it would be unlawful to capture or kill migratory birds.

The regulations adopted under this Act enjoined spring shooting throughout the United States, and the extent of their observance is a splendid tribute to the sportsmen of the country. Fully 95% of the sportsmen abided by this mandate and refrained from hunting during the closed seasons. The result was almost instantaneous. Waterfowl and other migratory game birds at once not only showed a marked increase in numbers, but, owing to the cessation of spring shooting, remained unmolested in ever-increasing numbers to breed in places from which formerly they had been driven every spring by incessant shooting. At the end of the five-year period during which this law was in operation, state game commissioners, leading sportsmen and conservationists were practically unanimous in their expression that wild fowl were more abundant than at any time in the 25 years preceding, and in attributing this increase to the abolition of spring shooting and the general observance of the Federal statute.

The very marked improvement in conditions under this law instilled a new spirit into sportsmen and showed the wonderful possibilities under a Federal law broad and comprehensive enough not only to protect the birds during the nesting season, but to equalize hunting privileges and opportunities by removing the incongruities still existing under state law.

The constitutionality of the law was attacked in the courts, but before it was passed upon by the United States Supreme Court, the law was repealed by the enactment of more effective legislation in 1918. The constitutionality of the law in 1913 thus became a dead issue and, on motion of the Attorney General, the appeal in the case was dismissed on January 6, 1919. In its action, the court did not pass upon the constitutionality of the law and this now remains a moot question. However, the constitutionality of the 1918 act was held to be valid by the Supreme Court in *Missouri v. Holland*.

When the Migratory-Bird Laws was passed, sportsmen and conservationists had in mind the enactment not only of a more comprehensive Federal Statute but of uniform international legislation, such legislation as would insure adequate protection of birds on their breeding grounds and in their winter homes. To this end, the United States Senate in 1913 adopted a resolution memorializing the President to negotiate treaties with other countries for the protection of migratory birds. As a result of negotiations thus initiated, a treaty between the United States and Great Britain for the protection of birds migrating between the United States and Canada was concluded at Washington on August 16, 1916, and was ratified on December 7th of the same year. Altogether, 537 species of migratory birds are included in the various families protected by the treaty, and all individual birds of each of these families, or species, are included, even though a few individuals may be found within the borders of any state the entire year. In other words, if a few individuals of any species of migratory birds remain for an indefinite period in a particular state, this fact does not take from them their migratory character and thus remove them from the operation of the law.

The treaty does not, however, include the gallinaceous birds, as quail, pheasants, grouse, and wild turkeys, and these still remain wholly within the jurisdiction of the several states. Approximately 220 species of migratory birds also are excluded from the terms of the treaty because they are specifically named or do not feed chiefly or entirely on insects.

The treaty provides for continuous protection for migratory insectivorous birds and certain other migratory non-game birds; a closed season for little brown, sandhill and whooping cranes, swans, curlews, willets, upland plovers, and all other shorebirds except Wilson's snipe or jack-snipe, and woodcock; and confines hunting to seasonable periods of not exceeding three and one-half months for the shorebirds not given absolute protection, and other migratory game birds.

The treaty provides no machinery to enforce its provisions, but the High Contracting Powers agreed to enact necessary legislation to insure its execution. In pursuance of this agreement, the Government of the Dominion of Canada passed the Migratory-Birds' Convention Act, which became a law on August 29, 1917; and the Congress of the United States passed the Migratory-Bird Treaty Act, approved by the President on July 3, 1938. The enactment of this legislation rounded out the most comprehensive and adequate scheme for the protection of birds ever put into effect.

Under the Migratory-Bird Treaty Act, it is unlawful to hunt, capture, kill, possess, sell, purchase, ship or transport at any time or by any means any migratory bird included in the terms of the treaty except as permitted by regulations which the Secretary of the Interior is authorized and directed to adopt, and which become effective when approved by him. The Act provides police and other powers necessary for its effective enforcement.

A treaty between the United States and Mexico for the protection of migratory birds and game mammals, which had been pending for a number of years, has become effective following the exchange of ratifications at Washington, D. C., by the two Governments. The treaty was made public by a proclamation by President Roosevelt on March 15, 1937. Laws and regulations under the treaty are administered by the United States Department of the Interior.

By this treaty, says the United States Fish and Wildlife Service, the authority of the United States over migratory birds while they are in this country now has a dual basis—Canadian and Mexican treaty obligations—and the three countries are now linked in cooperative efforts to extend protection to wildlife in general. The new treaty also provides Federal protection for 140 species and their subspecies not protected under the provisions of the covenant with Great

Britain in respect to Canada. The treaty in respect to Canada protects birds that migrate between the United States and that country, but many birds that cross the Mexican border in their northern migrations do not reach Canada. Among the species added to the protected list by the Mexican treaty are certain ducks, white-winged doves, mockingbirds, thrashers, horned larks, blackbirds, grackles, cowbirds, phainopeplas, buntings, finches, and sparrows.

The Mexican treaty also provides for the future inclusion of other migratory species "which the Presidents of the United States of America and Mexico may determine by common agreement." Neither game mammals nor migratory birds, says the treaty, may be transported, dead or alive, over the Mexican border without permit from the Government of each country.

The covenant was signed February 7, 1936, by Josephus Daniels, American Ambassador to Mexico, and Eduardo Hay, Foreign Minister to Mexico. Major E. A. Goldman, of the former Biological Survey, and Ing. Miguel de Quevedo and Juan Zinser, of the Mexican Department of Forestry, Game and Fish, assisted in the technical phases of the negotiations. The United States Senate on April 30, 1936, advised and consented to the ratification of the treaty, and similar action was taken by the Mexican Senate on November 27, 1936. President Cardenas of Mexico signed the ratification decree on December 11th.

An Act of Congress, approved by President Roosevelt on June 20, 1936, providing for the amendment of the Migratory-Bird Treaty of 1918 to make the law applicable to the treaty with Mexico, as well as to the treaty in respect to Canada, came into force upon the President's proclamation of the exchange of ratification of the treaty with Mexico. The amended Act authorizes the appropriation of Federal funds for putting into effect the treaties and acts and regulations thereunder for cooperating with local authorities in the protection of migratory birds, and for making necessary investigations. The Act provides for its administration by the Secretary of the Interior.

Other provisions of the Mexican treaty include the limitation of migratory-bird hunting to a maximum of four months in each year; closing the season of ducks in both countries from March 10th to September 1st; and establishment of refuge zones in which the taking of migratory birds will be prohibited. The new covenant "shall remain in force for 15 years and shall be understood to be extended from year to year if the high contracting parties have not indicated 12 months in advance their intention to terminate it."

VIEWS OF SPORTSMEN ON GAME AND FISH LAWS

*By DR. WALTER B. JONES
State Geologist of Alabama, University of Alabama
Alabama*

VIEWS OF SPORTSMEN ON GAME AND FISH LAWS

Perhaps the above caption should read "A sportsman's" view, for, after a quarter of a century of effort in behalf of conservation, I can speak only for myself. There are about as many views as there are conservationists. Even so, there is general agreement on the fundamental program of conservation of game and fish, and of wildlife as a whole, including the habitats of water, field and forest. That is evidence enough of real progress and should stir every sportsman to greater efforts that the ultimate goal of clean water and lots of it; healthy forests on every acre of ground not needed for cultivation or other essential purposes; fields with food and cover and a generally friendly atmosphere for upland game and lastly, people who will not abuse the privilege to seek and take game and fish. It is likely that the latter will be the most difficult to achieve, for there are still those who will exceed bag and creel limits, shoot over baited fields, hunt out of season or upon lands of another without a permit and otherwise break the laws of God and man.

Also my remarks must be based on situations in my own state, but they undoubtedly apply to all southeastern states.