

U.S. Supreme Court Saves the Birds



Photo taken by Shiras III



ELIHU ROOT



FOE OF INSECT PESTS



ELIZABETH LAKE, OREGON



EGRET

By JOHN DICKINSON SHERMAN

OUR migratory birds are safe. The federal migratory bird act of 1918, designed to carry out provisions of a treaty between this country and Canada for the protection of migratory birds, has been held constitutional by the Supreme court of the United States.

This takes us back to a blustery March day in 1919 when a distinguished party of shooters was popping away merrily at the mallards and bluebills in a marsh at Nevada, Mo. It really was a distinguished party. In it were Attorney General Frank McAllister of Missouri; J. R. Reynolds of Kansas City; E. S. Vilmore, Kansas City, and M. S. Bodine and Clarence Evans of Paris, Mo.

But congress had previously passed the federal migratory bird act, which among other things prohibits spring shooting of water fowl. How came it then, that the attorney general of the state of Missouri was in the party?

Well, he was "from Missouri." The Missouri folks have to be shown, you know. And Attorney General McAllister and his friends had an idea that the migratory bird act was unconstitutional. They liked to shoot ducks—spring, as well as fall—and they proclaimed that the act interfered with the sovereignty of the state of Missouri and with the property rights of the people of Missouri.

So Attorney General McAllister of Missouri and his friends went hunting March 7, 1919. Moreover, they didn't care who knew it. Maybe they even tipped it off to the federal game warden. Anyway, the federal game warden put in an appearance and arrested the attorney general and his party. The party was arraigned at Clinton, Mo. McAllister took the case into court, asking for an injunction to restrain the federal game warden from enforcing the law. Federal Judge A. S. Van Valkenburgh held the law constitutional and the state appealed to the United States Supreme court.

To George Shiras III, and Elihu Root the millions of bird-lovers owe gratitude. So do the millions of gardeners and farmers who, with the insectivorous birds gone, would be eaten up by their insect foes. George Shiras, a member of congress from Pennsylvania, began the fight away back in 1904. Elihu Root—possibly the most commanding intellect in the country today—clinched the victory.

T. Gilbert Pearson, secretary and executive officer of the National Association of Audubon societies, who has also a big share in the victory, is a wide-awake citizen and thoroughly familiar with the situation. Let him tell the story of the long, hard fight. Says Mr. Pearson:

"George Shiras III, was a man of means who was interested in good works. In looking over the situation in reference to the protection of birds, he discovered that the states all had different seasons in which migratory game birds could be shot and that what the situation really amounted to was that game birds could be shot in different parts of the country all through the year. He decided that the only way to remedy this state of affairs, which would in time result in the extinction of game birds, was to put the matter under government control and thus do away with the constant and everlasting wrangling of the states. So he introduced a bill in congress for the protection of migratory birds. It was referred to a committee and put in a pigeonhole, and that was the last of it.

"Before this time the only protection law in force in the States was the Audubon law, which succeeded in getting enacted in all but about eight states. This, however, did not prohibit the killing of birds. In 1910 we brought about the prohibition of the sale of aligrets.

"In theory, the state game laws worked nicely, and it could be shown on paper that each state could have its chosen shooting season and still there would be no dying out of birds. But in practice they did not work so well. Take, for instance, duck shooting—when the ducks start north in the spring they are mating and if you

shoot one, that breaks up the pair for the season.

"Well, four years after the pigeonholing of Shiras' bill, John B. Weeks introduced in the house the same bill with slight modifications. Nothing came of it. He introduced it again in 1909, and again in 1911, while at the same time George P. McLean introduced a similar bill in the senate. In the spring of 1912 committee hearings on the bill were begun.

"Both these bills mentioned migratory game birds only. Now, there are only about 50 game birds," Mr. Pearson said meditatively, puffing his pipe, "and there are 1,200 kinds of birds in North America. There are 51 warblers alone in the eastern part of the United States. Therefore, the Audubon society urged that the bill be changed to apply to all migratory birds, and this change was adopted and put before congress.

"The bill became a law on March 4, 1914; ex-President Taft signed it on the morning that he gave up his office as one of his last official acts. Authority was given to the department of agriculture, then, to go ahead and make the rules governing the killing of birds. The department of agriculture did not know anything about birds, so they turned it over to a special branch of the department, the Biological survey. Three men of the Biological survey drew up a lot of regulations and announced them to the states. Immediately there was a roar of objections from all over the country, and all of the states thought their rights had been infringed.

"Then came a test case. Out in Big Lake, Ark., a man killed a coot in violation of the regulations. He was arrested and the federal judge for the Eastern district of Arkansas declared the federal migratory bird laws illegal. The case, of course, then went to the Supreme court of the United States. The Supreme court was very hostile, and the case dragged along for several months. Finally, the Supreme court did a very unusual thing. It asked the department of agriculture to restate its case, from which we understood that the court was a tie, and the case was referred back to the department of justice.

"In the period of waiting which followed Elihu Root came to our assistance. 'This may be declared unconstitutional and everything lost,' he said, 'but we may be able to beat it. A treaty is not subject to revision by the Supreme court, so why not get these ideas written into a treaty?'

"Immediately the machinery was set in motion which would turn the bill into a treaty. After a great deal of trouble arrangements were finally concluded with Great Britain for Canada and the treaty was drawn up. But a treaty is a dead letter unless congress by law states what department shall enforce it—that is every treaty requires an enabling act.

"I went down to Washington and spent six weeks there trying to arouse interest in the enabling act for our treaty. The treaty was ratified by congress on September 29, 1916, and a year or so later the enabling act was passed. Then the government, remembering the tremendous amount of abuse heaped upon them after the drafting of the first set of regulations, decided to have a committee to find out what the people wanted, and they appointed a national committee of first a dozen men and later about 20.

"Soon after this in Missouri some men went hunting and violated the regulations and were arrested. The case was referred to the Supreme court, and on this case the present decision is based, holding legal the enabling act and thus protecting the treaty."

"This very wise decision makes quite clear the position of state rights when it comes to birds. It says:

"The state, as we have intimated, founds its claim of exclusive authority upon an assertion of title to migratory birds, an assertion that is embodied in statute. No doubt it is true that as between a state and its inhabitants the state may regulate the killing and sale of such birds, but it does not follow that its authority is exclusive of paramount powers. To put the claim of the state upon title is to lean upon a slender reed. Wild birds are not in the possession of any one; and possession is the beginning of ownership. The whole foundation of the state's rights is the presence within their jurisdiction of birds that yesterday had not arrived, tomorrow may be in another state and in a week, 1,000 miles away. If we are to be accurate we cannot put the case of

the state upon higher ground than that the treaty deals with creatures that for the moment are within the state borders, that it must be carried out by officers of the United States within the same territory and that but for the treaty the state would be free to regulate this subject itself."

"With the federal migratory bird law in operation and Canada holding up her end—as she is—the birds have a chance. As soon as Mexico is brought to time and made to behave decently, the same kind of treaty will be arranged with her. Then the birds will be protected all along the line of migration.

It is the opinion of most duck shooters that the good effect of the federal migratory bird law is already very much in evidence. The birds now nest in many of their old nesting places in the United States, instead of going clear to northern Canada. Like all wild life they are quick to sense their protection and to take advantage of it. In consequence the hunter, from his viewpoint, is pleased with the working of the law because it gives him more ducks to shoot in the fall.

The judgment of the hunter is confirmed by that of the biologist. The United States Biological survey is engaged in a study of the conditions at the larger breeding places in various parts of the country. A 1920 report on "Waterfowl in Nebraska"—an illustrated bulletin of 77 pages by Harry C. Oberholser—says on this point, in part:

"In its natural state—that is, unaffected by the presence of man—the sand hill region of Nebraska is an ideal breeding place for waterfowl. It is, indeed, one of the very best of the remaining breeding grounds. The great number of marshy lakes, with their abundant supply of food, shelter, and breeding places provide advantages which it would be difficult to surpass.

"It is the universal testimony of residents and of sportsmen that the myriads of ducks which in former times frequented the sand hill region, particularly during spring and fall, have been greatly reduced. This diminution is due in part to spring shooting, but also to a number of other causes, including the slaughter of ducks in great numbers both south and north of Nebraska. The migration flights here, however, are still large and show that there remains a good supply of waterfowl, which with proper protection and reasonable regulation of shooting will continue indefinitely to furnish excellent sport. The breeding waterfowl of the sand hills also have suffered from hunters, particularly in spring. On many of the lakes there are club houses owned by sportsmen from cities outside of the county, who were long in the habit of shooting here regularly in spring.

"Since the enactment of the federal statute of 1913, known as the federal migratory bird law, there has been comparatively little spring shooting in the sand hill region, for the law seems to have been very well observed.

"In all the localities that the writer visited he made careful inquiries regarding the effect that the stopping of spring shooting has had on the numbers of waterfowl, particularly ducks. It is very gratifying to note that after the federal law went into effect ducks began steadily to increase in Nebraska, particularly in the lakes of eastern Cherry county, those about the headwaters of the North Loup river, and at the Cody Lakes. As one resident expressed it, as soon as the ducks find out that they will not be disturbed in spring they come back in increasingly large numbers."

LEAVE GIRL TO DIE UNDER CAR

Men Force Her Chum Into Another Machine and Drive Away.

IS BURNED TO CINDER

Tragedy is Culmination of Wild Ride of Intoxicated Party—Girl's Wrist Watch Fused by the Heat.

New York.—Despite the pleadings of a girl companion, who begged them to try to save her companion who was being cremated beneath a burning automobile, two men, both under the influence of liquor, forced the companion into another automobile and drove away while the screams of the burning girl grew fainter and fainter.

The girl, whose identity is unknown save that her name was Helen, was of a party of four in an automobile that turned turtle at Old Mill road and Queens boulevard shortly after four o'clock in the morning.

The tragedy, the culmination of a wild ride, was witnessed by Anthony Kutillas and his wife, who live almost opposite the spot where the accident happened, and Thomas Fischer of 1821 Palmetto street, Ridgewood, N. J.

Awakened by Screams.

The Kutillas were awakened by the screams of two girls shortly after three o'clock. They rushed to a window and saw an automobile running a zig-zag course past their house. The automobile soon disappeared, but the screams of the girls could still be heard.

In a few moments the car returned, running at a high rate of speed and stopped when the driver saw a stalled car belonging to Fischer. Stopping but a few seconds, the chauffeur started again with such speed that the car overturned.

The two men and one of the women were thrown clear of the wreckage, but the second girl had been pinned beneath the wreckage. Flames burst out immediately.

The girl who had been thrown from the car was uninjured and, according to Mr. and Mrs. Kutillas and Fischer,



"Never Mind Her, Come On."

begged the men frantically to save the girl who was being burned to death.

"Never mind her!" shouted one of the men. "Come on!" With that he grabbed her and started pulling her down the road. Another car came along and the two men forced the girl into the second machine and sped away.

Burned to a Cinder.

In the meantime the girl under the car had become a flaming torch. Her screams had ceased by the time Mr. Kutillas reached the scene. Fischer was working frantically to extinguish the blaze. He was joined by Kutillas and a number of men returning from a dance.

Mrs. Kutillas telephoned an alarm of fire and it was not until the firemen arrived and extinguished the blazing gasoline that the charred body of the girl could be removed from the pyre.

Her form had been burned to a cinder. A wrist watch had been fused by the heat. It was so badly damaged that it could not serve as an identification mark. Protected by the girl's body lay a purse containing some charred papers and business cards of firms in Montclair, Newark and Jersey City.

One More Unfortunate.

Manchester, O.—Identity of a beautiful girl buried in a graveyard three miles from here will never be known. She appeared at a farm and was taken in for the night. She left in the morning, and three days later she was found on a deserted houseboat, alone and near death from starvation and exposure. When turned over to local Red Cross workers, she said: "I have cut all home ties. There is nothing on me by which I can be identified. I don't want my family to know of my fate." She lived two days but never made any other statement.

If You Need a Medicine You Should Have the Best

Have you ever stopped to reason why it is that so many products that are extensively advertised, all at once drop out of sight and are soon forgotten? The reason is plain—the article did not fulfill the promises of the manufacturer. This applies more particularly to a medicine. A medicinal preparation that has real curative value almost sells itself, as like an endless chain system the remedy is recommended by those who have been benefited, to those who are in need of it.

A prominent druggist says: "Take for example Dr. Kilmer's Swamp-Root, a preparation I have sold for many years and never hesitate to recommend, for if almost every case it shows excellent results, as many of my customers testify. No other kidney remedy has so large a sale."

According to sworn statements and verified testimony of thousands who have used the preparation, the success of Dr. Kilmer's Swamp-Root is due to the fact, so many people claim, that it fulfills almost every wish in overcoming kidney, liver and bladder ailments; corrects urinary troubles and neutralizes the uric acid which causes rheumatism.

You may receive a sample bottle of Swamp-Root by Parcels Post. Address Dr. Kilmer & Co., Binghamton, N. Y., and enclose ten cents; also mention this paper. Large and medium size bottles for sale at all drug stores.—Adv.

Menu, Please.

Housewife—I never give alms at the door, but if you wish you may have a little dinner.

Tramp—Madam, would it be considered immodest to inquire what the dinner bill is today?

CUSTOMS FIFTY YEARS AGO.

Who among us would say to-day, "I never use a Dentifrice; I never have to?" Yet Fifty years ago, odd as it may seem, not one person in 1,000 used a Dentifrice—or even a tooth brush.

So to-day, after more than 30 years of persistent publicity of Allen's Foot-Ease, the Antiseptic Powder for the Feet, not many well-turned-out people care to confess, "You know I never have to use a Powder for the Feet!"

More than One Million five hundred thousand pounds of Powder for the Feet were used by our Army and Navy during the war.

The reason is this: Confining the feet in Leather or Canvas Shoes is bound to create friction more or less. Allen's Foot-Ease removes the friction from the shoes. It is this friction which causes calluses, corns and bunions. You know what friction does to your motor-car axle. Why not remove it from your foot-ware by Shaking into your Shoes to-day, Allen's Foot-Ease, the cleanly, wholesome, healing, Antiseptic powder? Get the habit, as millions now have it, who inhabit our, as yet, imperfect world.—Adv.

They're Not Afraid.

"Do you have much trouble with the servant?"

"I would if I dared to speak my mind. But when she annoys me I walk away and say nothing."

"You don't correct her?"

"No. She'd leave if I did. The children are the only ones in our house who have nerve enough to talk back to her."

FRECKLES

Now is the Time to Get Rid of These Ugly Spots.

There's no longer the slightest need of feeling ashamed of your freckles, as Othine—double strength—is guaranteed to remove these homely spots.

Simply get an ounce of Othine—double strength—from your druggist, and apply a little of it night and morning and you should soon see that even the worst freckles have begun to disappear, while the lighter ones have vanished entirely. It is seldom that more than one ounce is needed to completely clear the skin and give a beautiful clear complexion.

Be sure to ask for the double strength Othine, as this is sold under guarantee of money back if it fails to remove freckles.

Italian "City of Crime."

The only town in the world which can boast of possessing more criminals than law-abiding folk is the Italian city of Artens, which is known as the City of Crime. For several hundred years nearly every criminal who has escaped prison or done time in Italy has emigrated to Artens, and today practically every inhabitant of the place is a criminal or the child of a criminal.

ASPIRIN

Name "Bayer" on Genuine



"Bayer Tablets of Aspirin" is genuine Aspirin proved safe by millions and prescribed by physicians for over twenty years. Accept only an unbroken "Bayer package" which contains proper directions to relieve Headache, Toothache, Earache, Neuralgia, Rheumatism, Colds and Pain. Handy tin boxes of 12 tablets cost few cents. Druggists also sell larger "Bayer packages." Aspirin is trade mark Bayer Manufacturing Monocetateester of Salicylicacid.—Adv.

Waste.

Samson pulled down the temple. "Heavens, man," we cried, "don't you know how scarce buildings are?"

There are not many men that fashion can control after their fiftieth milestone.

MURINE Night and Morning. Have Strong, Healthy Eyes. If they Tingle, Itch, Smart or Burn, if Sore, Irritated, Inflamed or Granulated, use Murine often. Soothes, Refreshes. Safe for Infant or Adult. At all Druggists. Write for Free Eye Book. **Muris Eye Remedy Co., Chicago**