



U. S. DEPARTMENT OF AGRICULTURE
Office of Information
Press Service



WASHINGTON, D. C.

Release - Immediate

October 31, 1935

VALIDITY OF FEDERAL BIRD
REGULATIONS AGAIN UPHELD

- - -

Another legal attack on Federal regulations governing the shooting of migratory game birds has failed and a Federal Court has again upheld the restrictions on wildfowling, says the Bureau of Biological Survey in commenting on the opinion handed down by Judge J. Earl Major in U. S. District Court in Springfield, Ill., on October 25.

Dismissing a bill of complaint asking that Federal officers be enjoined from enforcing this year's waterfowl-hunting regulations, Judge Major declared that the plaintiffs had no property right in the migratory birds but "only such permissive privileges as the Governmental authorities may decree."

Led by G. G. Brandenburg, president of the Illinois Sportsmen's Association, and including five of that State's hunting clubs, the plaintiffs had alleged that the enforcement of the regulations would cause a depreciation in the value of property which they had acquired as hunting grounds. The Judge, however, pointed out that "those who spend large sums of money in the purchase of land and in improving and equipping the same for the hunting and taking of migratory birds must have done so with the knowledge, actual or implied, that they had no property right" in the birds.

The "matter in controversy", the Judge concluded, was not the damage alleged to be sustained in property depreciation but rather the restriction on the

plaintiffs' taking and possessing waterfowl. Damage or injury suffered because of decreased real estate values he considered "purely incidental or collateral to the object and purposes of the suit." Ruling that such damage could not be taken into consideration in determining the amount in controversy, Judge Major reached the conclusion ^{that} this did not exceed \$3,000 and was therefore outside the jurisdiction of the Federal Court.

This conclusion, together with the ruling that no property right justifying an injunction was involved, according to the Judge, precluded the consideration of other questions presented, including the allegation that the regulations were made without regard to zones of temperature or to the distribution, abundance, economic value, breeding habits, and migrations of the birds. Biological Survey naturalists who were in court prepared to present data used in formulating the regulations, and local sportsmen who supported the Bureau's conservation policies, were thus not called upon to testify.

This year's regulations, says the Bureau, were based on the results of extensive investigations showing that the alarming condition of the birds made a short season with severe restrictions the only alternative to a complete prohibition of hunting. Though interested primarily in the protection of the birds, the Biological Survey points out that only the necessary restrictions indicated by the condition of the species are recommended, and the restrictions are for the purpose of perpetuating the sport of wildfowling rather than of interfering with it.

The plaintiffs in the case in addition to Mr. Brandenburg, were the Island Club, the Grand Island Lodge, the Crane Lake Game Preserve, the Senachwine Club, Walter G. Peacock, N. Landon Hoyt, C. E. Carson, William E. Clow, Jr., J. J. Merrill, and William C. Pecord. The case was argued on October 18.