

DEPARTMENT OF STATE

FOR THE PRESS

MARCH 15, 1937

On March 15, 1937, the Honorable Cordell Hull, Secretary of State, and His Excellency Dr. Don Francisco Castillo Nájera, Ambassador of Mexico, exchanged the instruments of ratification of a convention between the United States and Mexico for the protection of migratory birds and game mammals. The Honorable Henry A. Wallace, Secretary of Agriculture, and other high Government officials, were present at the ceremony. The convention, which was signed in Mexico City on February 7, 1936, now enters into force.

The question of the protection of migratory birds which cross the international borders has long been a matter of concern to the federal government. A treaty with Canada for the protection of migratory birds has been in force for more than twenty years and has produced gratifying results. However, many birds which cross the Mexican border do not reach Canada in their northern migrations. Under the convention with Mexico, Mexico now agrees to protect the species of migratory birds common to the United States and Mexico, which includes certain species, numbering 140, and their sub-species, not protected under the treaty with Canada. Other species may be added by common agreement between the President of the United States and the President of the United Mexican States.

One of the most important provisions of the new convention establishes a closed season for wild ducks from March 1 to September 1 of each year. It is further provided that the open season on wild ducks in the United States and Mexico shall not exceed four months.

Articles III and V of the convention provide that the respective governments will not permit the importation of migratory birds or game mammals without a permit from the country of exportation. These provisions establish a basis for the two governments to cooperate with each other in the execution of their game laws.

An act of Congress approved June 20, 1936, provides for the amendment to the migratory bird treaty act of 1918 to make the law applicable to the convention with Mexico as well as to the treaty with Canada. This act will come into force upon the President's proclamation of the exchange of ratifications of the convention with Mexico.

The constitutionality of the migratory bird treaty act of 1918, which followed the treaty with Canada, was sustained by the United States Supreme Court in a decision rendered April 19, 1920, in the case of the State of Missouri vs. Holland. Holland, then a federal game warden, was engaged in enforcing the migratory bird treaty act, and the State claimed that the act was in unconstitutional interference with the rights reserved to it by the Tenth Amendment of the Constitution and that therefore the federal game warden was without power to enforce the act in Missouri. The Court, however, speaking through Mr. Justice Holmes, held that under Article I, Section 8, the Congress could pass an act to execute the terms of the treaty. The only question, therefore, was whether the treaty was a valid exercise of the constitutional

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treaty-making power. The Court held that treaty "does not contravene any prohibitory words to be found in the Constitution."

The convention with Mexico is for a period of fifteen years and is extended thereafter from year to year unless denounced on twelve months' prior notice.
