



DEPARTMENT OF THE INTERIOR

INFORMATION SERVICE

UNITED STATES FISH AND WILDLIFE SERVICE

For Release SEPTEMBER 24, 1957

ARREST AWAITS NORTH DAKOTA HUNTERS WHO HARVEST "NONMIGRATORY DUCKS"

Hunters who harvest ducks in North Dakota before October 1 during that State's season for so-called "nonmigratory ducks," which opens September 27, face arrest for violation of Federal migratory bird laws, Assistant Secretary of the Interior Ross Leffler warned today.

Assistant Secretary Leffler added that extra enforcement officers will be available to enforce the United States laws and regulations relative to ducks and geese in that State.

The difficulty in North Dakota stems from the passage of a law there providing for the hunting of "nonmigratory ducks" beginning at noon on September 27, $3\frac{1}{2}$ days ahead of the migratory waterfowl hunting season opening proclaimed in accordance with Federal law.

According to the North Dakota statute, "the word 'nonmigratory' shall mean and include each individual bird that has not or does not migrate across the borders of North Dakota but the term shall not include geese for purposes of this Act. Each individual bird of any waterfowl species shall be presumed to be nonmigratory unless it is shown by specific and competent evidence to be otherwise..."

Federal officials insist that there is no such thing as a wild "nonmigratory duck" and base their contention on a ruling by a Federal court in 1921. In this case, which concerned mourning doves, the court held that the Migratory Bird Treaty and subsequent legislation defined certain species as migratory birds including even those individuals or flocks which might never cross a State line.

In 1948, a similar situation developed in a southern State when it rejected the mourning dove hunting season as promulgated by the Secretary of the Interior and established a hunting schedule in conflict with the Federal regulations. The

Fish and Wildlife Service augmented its enforcement staff there and enforced the Federal regulations. Several arrests were made. Convictions were obtained in virtually every case brought into Federal court. At the request of other States in the south that State later amended its regulations and since has conformed with Federal rules established under international treaty.

The Migratory Bird Treaty Act sets up the machinery necessary to implement the treaties with Canada and Mexico regarding migratory birds. Under authority of appropriate Federal legislation, the Secretary of the Interior issues regulations setting up the broad framework within which the States must stay in fixing their own migratory bird hunting seasons. Outside dates for the 1957-58 migratory waterfowl hunting are October 1, 1957 and January 15, 1958.

North Dakota is one of the great duck-producing States in the country. Nearly 75 percent of the ducks produced in the United States come from the "pot-hole country" of North and South Dakota and western Minnesota. The limitations on opening and closing dates for hunting are established by the Service only to make certain there will be adequate numbers of breeding ducks to return to the nesting ground the next year, and provide new crops of young for another gunning season. It is pointed out that early openings place excessive pressure on local breeding ducks. Excessively late seasons have a similar adverse effect on local wintering populations.

x x x