OME of the most terrific legislative battles which have been fought in this country for bird protection have been waged about the subject, "May wild fowl be shot in springtime?" When the wild water-fowl desert the Southern waters and start on their journey to the Northern nesting grounds, they present most tempting marks to the gunners in almost every rural district in the United States. When along in March the farm boy runs breathless to the house with the announcement that a company of mallard ducks is swimming in the pond down below the pasture, the average farmer yearns to take his gun and creep along the rail fence toward them.

When some day in early April the man on the street hears a soft trumpeting honk falling sweetly as a bugle note from the clouds above, and looking up sees an old gray gander leading his pulsating triangle toward the frozen pole, something clutches at his heart and his fingers tingle to grasp his breech-loader and hie away by the night express to the St. Clair Flats, the Great South Bay, or the tumbling waters of the Chesapeake. So universally is this call felt by men in whom the hunting instinct is strong that many were the years that elapsed before even scant heed was paid to the vigorous protests of men and women who cried out that shooting at this season must cease. Today it is a generally recognized fact that many wild fowl mate for the season while in Southern waters, and to break up mated pairs by shooting during spring migration is highly detrimental to the welfare of the species.

To put an end to the destructive effect of killing wild fowl at this season, bird protectors earnestly recommend the passage of laws which will keep the gunners from enjoying, as hitherto, the sport of shooting the feathered life of ponds and bays. Yet strange as it may seem to the bird protectors, the legislator does not always heed their advice, possibly for the reason that while fifty earnest bird lovers are urging this measure, there are five thousand other constituents who by their protests and actions say: "Do not prevent us from killing all the ducks we can, although this may mean that our sons will know nothing of the joys of wild-fowling when they are grown."

However, so insistent have been the members of the Audubon Society and the more conservative sportsmen that many State legislatures of recent years have yielded to the constant importuning of the conservationists and have enacted laws for the spring protection of wild fowl. Thus, in many of our Northern States today when the grass is greening and the bluebird is whistling in the orchard the mal-
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lard may alight with impunity on the farmer’s pond and the wild
goose may float in safety along his aerial pathway. Although many
anti-spring shooting laws now lie inscribed on the statute books, few
of them are suffered to repose in peace, for whenever a legislature
assembles, as for example in New York State, one of the ills that we
always have to face is the epidemic of spring shooting bills introduced
by representatives of the people in response to the wishes of the bird-
killing element back home. Their coming is as regular as Christmas
every year. To the legislature we go—both sides are represented, the
same old arguments are used, both sides publish letters, editorials and
news items on the merits of the controversy. By a slender majority
the legislature finally kills these bills, and the bird protectors sigh with
relief, well knowing however that the same programme will have to be
gone through with another year, for, like Banquo’s Ghost, spring
shooting bills will not down.

In the minds of bird protectors there has been growing the keen
desire to be relieved from these ever-recurring efforts of game slaugh-
terers to take protection off the remnant of our wild fowl life.

THE Honorable George Shiras, Third, member of Congress from
the State of Pennsylvania, advised the country in the year
nineteen hundred and four that he had a remedy which would
cure this trouble once for all. His plan was to have Congress pass a
law which would give to some department of the Federal Government
the authority to make regulations regarding the seasons when migra-
tory birds might be killed, and take the matter entirely out of the hands
of the State legislatures. He reasoned, and reasoned rightly, that not
only are our Federal statutes usually held in greater awe by the general
public than our State laws of a similar character, but that regulations
legally provided by a department of the Government would apply to a
wide section of country and would not be so liable to attack as would
be the various State laws on the subject. He, therefore, introduced a
measure in Congress which provided for the Federal control of migrat-
tory game birds. The bill was referred to the House Committee on
Agriculture for consideration, where it reposed until in the fulness of
time it was gently, but effectively, chloroformed.

Four years later, or to be exact on December eighth, nineteen hun-
dred and eight, Hon. John W. Weeks of Massachusetts introduced a
very similar bill in the lower House of Congress. Nothing came of
this, however, and on May twenty-eighth, nineteen hundred and nine,
he presented another measure, the declared object of which was “to
protect migratory birds of the United States.” This differed from his
first attempt in that the word game was omitted so the bill thus
sought to extend protection alike to migratory game and insectivorous birds. This change had been made in response to the earnest solicitations of Mr. William Dutcher, President of the National Association of Audubon Societies.

Securing the passage of a Federal law is usually a long operation and the present case was no exception to the rule. This bill, like hundreds of other germinating laws, died on the calendar at the end of the Sixty-first Session of Congress.

Mr. Weeks was persistent, and on January sixth, nineteen hundred and eleven, presented his third bill on the subject. It provided for the protection of all migratory game birds and all insect-eating birds which migrate from one State to another. Others now began to show an interest in the subject. Two additional bills of the same general character were introduced in Congress this year. One of these appeared in the House, fathered by Mr. Anthony, and the other in the Senate was presented by Senator McLean. The Anthony bill was later withdrawn, but the McLean and Weeks bills, which were soon made identical in wording, were pushed with the utmost vigor.

The story of how the campaigns were inaugurated and conducted in their behalf by the bird lovers of the United States is a long one. It would include accounts of how State Governors and legislatures were appealed to, and not without results, and asked to send resolutions to Congress endorsing these bird protective bills; how sportsmen’s organizations by the hundreds passed resolutions on the subject and sent them to their Representatives in Congress; how zoological societies and scientific bodies bestirred themselves in the matter, and how Audubon societies throughout the Union despatched thousands of letters and telegrams to Senators and Congressmen.

Just before the end of the last session of Congress, the combined bill passed, and one of the last official acts of President Taft on March fourth, nineteen hundred and thirteen, was to sign the bill and make it a law.

Now, what does the Weeks-McLean Law propose to do and how will it help save the migratory birds? It is a very remarkable document. First, it provides that “all wild geese, wild swans, brant, wild ducks, snipe, plover, woodcock, rail, wild pigeons, and all other game and insectivorous birds, which in their northern and southern migrations pass through or do not remain permanently the entire year within the borders of any State or Territory, shall hereafter be deemed to be within the custody and protection of the Government of the United States, and shall not be destroyed or taken contrary to regulations hereinafter provided therefor.”
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In the second paragraph the law states "the Department of Agriculture is hereby authorized and directed to adopt suitable regulations to give effect to the previous paragraph, by prescribing and fixing closed seasons, having due regard to the zones of temperature, breeding habits, and times and line of migratory flight, thereby enabling the Department to select and designate suitable districts for different portions of the country, and it shall be unlawful to shoot or by any device kill or seize and capture migratory birds within the protection of this law during said closed seasons, and any person who shall violate any of the provisions or regulations of this law for the protection of migratory birds, shall be guilty of a misdemeanor, and shall be fined not more than one hundred dollars or imprisoned not more than ninety days, or both, in the discretion of the court."

A careful reading of the above will show that this new Federal law gives the Agricultural Department authority to make and enforce regulations regarding the seasons when migratory birds can be killed, but the Department is here given no authority in the matter of prescribing the character of guns or other destructive devices which may be used in killing wild fowl, nor has it anything to say in regard to "dusking" ducks, night shooting, shipment or sale.

As the great mass of insectivorous migratory birds are already protected by State laws in most parts of the United States, and as there is no "open season" for their killing, these facts automatically remove such birds from the operations of the Weeks-McLean Law. The birds to be benefited by its operations are confined almost entirely to wild ducks, geese, rails, plovers, snipe, woodcock, sandpipers and a few other species which, while protected in the Northern States may be shot as game in the South. This latter list is very brief, the chief members of which are the robin, meadow-lark, mourning-dove and bobolink.

At the present time the officials of the Bureau of Biological Survey, to which the Department of Agriculture has intrusted the delicate duties of preparing the preliminary details for the regulations to be adopted, are very much engaged in gathering data and in sounding public sentiment. These Government officials have already been having discussions and holding informal hearings with sportsmen’s clubs, Audubon Society workers and others who have opinions to express as to the boundaries of the zones wherein migratory game birds can be killed, and at what seasons they should be taken.

Probably several months will yet elapse before a working code of regulations shall have been prepared, adopted and promulgated. It is
hardly probable that these new rules will take effect before next spring. While the sum of only ten thousand dollars is appropriated by the Government for carrying out the provisions of this law, we may expect a much more adequate and far-reaching enforcement than might naturally be expected from the expenditure of so small a sum for such a gigantic undertaking. This will be because of the hearty cooperation of the various State game commissions and the State warden systems in operation at the present time.

After the new regulations have once become operative and the people have commenced to see the good which will undoubtedly come from this law, Congress will unquestionably provide the necessary means for making the Weeks-McLean Law a factor of great importance in the matter of the preservation of the migratory birds of the country.

As is to be expected, there are to be found here and there men who talk knowingly of the unconstitutionality of this new Federal law. For many years the writer has been actively engaged in legislative work for bird and game protection throughout the United States, and has long since become familiar with this class of objectors. I do not recall ever having appeared before a legislative committee in the interest of an important bill for bird protection but what there was someone present to raise a question as to whether the law under discussion would not prove to be unconstitutional. This, however, is a matter with which we need not concern ourselves at the present time. That question can very well be left to the courts, and when we take into consideration the liberal construction which they have placed on various conservation laws of late, we need have little fear for the ultimate fate of the National Migratory Bird Law.