

A BRIEF REVIEW OF MIGRATORY GAME BIRDS IN NEW YORK STATE

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In November of last year, I received word that a duck hunter shot a King Eider on the Hudson River not far from my home in Columbia County (R.Guthrie, personal communication). Only the 5th record for Region 8, I was naturally disappointed that the rarity had been lost before I had a chance to enjoy it. As I wrote down this sighting for my region's long-term records and reflected on my personal reaction to its circumstances, several questions emerged: Was it illegal to shoot rare waterfowl in New York State? What are the bag limits for uncommon ducks and other game birds? How have we historically come to decide which species are game species?

Some of these questions are easy to answer. New York State's Code of Rules and Regulations, Volume 6, Chapter 1, Part 2, clearly states the specific numbers, conditions, and seasons by which licensed hunters can shoot waterfowl. King Eiders, it appears, are indeed fair game, despite their general scarcity in the state and real rarity in my region. Perhaps no one ever questioned whether game species rare or unusual within our state's borders are worthy of special consideration. Or perhaps this question was considered, but locally rare winter visitors (e.g., King Eider) were deliberately accorded less protection than locally rare breeding species (e.g., Spruce Grouse) and globally rare winter visitors (e.g., Harlequin Duck). In either case, I doubt whether many birders and hunters, or citizens in general, are aware of and endorse the rationale underlying the current law.

In general, I support the concept of hunting. Birds have evolved under the pressures of a variety of predators—death by wolf or shotgun is roughly equivalent provided the birds are not wantonly abused. Several aspects of our current hunting regulations, however, seem to me to violate a basic sense of fairness in respect to ethical and economic considerations.

The relationship between the preservation and harvest of game birds has never been an easy one. Even the most militant preservationists owe some reluctant gratitude to the sporting community who worked to enact our nation's early conservation laws. Make no mistake, few naturalists at the turn of the last century argued for the protection of birds out of ethical or aesthetic considerations. Gun and ammunition manufacturers worried at the real prospect of an America with no game left to shoot. Many gun manufacturers underwrote or lobbied on behalf of the Lacey Act, The Migratory Bird Treaty of 1918, and the Migratory Bird Stamp Act. These laws not only fixed closed hunting seasons, but also established a tradition of obtaining federal lands where ducks, and many other wild species, could seek refuge among expanding commercial demands (Smith 1976).

Decades before the concept of ecology emerged, wealthy hobbyist sportsmen succeeding in slowing the unsanctioned filling of wetlands, the abuses of the millinery trade, and the senseless harvests of market hunters. Under the Migratory

Bird Treaty, of a total of 768 species then recognized by the AOU, 537 species were protected. As early as the twenties, however, several conservationists argued that the legislation didn't do enough to protect uncommon game species, such as woodcock, snipe, and grouse. Tremendous pressure existed to limit the protection of species that were still profitable as market species, such as turkey and ducks. Some labeled the conservation movement as a class struggle between the rich and poor, and accused the new legislation of hoarding game for the enjoyment of "snobbish hunting clubs" (Everman 1922). Our current roster of game species originates, at least in part, from decades of contentious political bickering.

Although the separation of the class Aves into game species and non-game species now confers a very specific legal designation, the history of this distinction is not so neat and simple. According to David Steadman (1998), excavations at prehistoric sites in New York reveal that our state's ancestors killed and likely ate grebes, owls, and woodpeckers as well as turkeys, ducks, and geese. This indiscriminating palette is not limited to the prehistoric, however. Manuscripts from Tudor England show that thrushes, buntings, and many other songbirds appeared on menus (as well as such unusual foods as seal, cranes, and even narwhale). In our own country, early backwoodsman hunters shot all manner of species, including passerines, and sold them in town markets for consumption. Audubon wrote in his journal that he checked such markets frequently to obtain models for his illustrations. Americans likely inherited our basic conception of game birds from the hunting traditions of the 19th-century British and European aristocracy, which heavily favored the shooting of the shorebirds, ducks, geese, and gallinaceous birds.

These 19th-century traditions may help explain why "snipe, rails, and gallinules" are currently on the roster of game birds in New York, despite the fact that many of these species are now uncommon. It is legal to hunt up to 16 Virginia Rail, Sora, Common Moorhen, and Wilson's Snipe in all areas north of New York City. Licensed sportsmen can also shoot up to 30 American Coot as well as 3 American Woodcock per day in season. Hunters in our state, as well as all other states beginning in 1998, participate in a national Harvest Information Program (HIP), an attempt to determine the general number of game birds shot each hunting season. From this study, we know the majority of New York State game bird hunters purchase licenses with the intention to hunt ducks and geese (G. Batcheller, personal communication). Of 33,561 hunters randomly interviewed in 2002-03, less than 3% (810 individuals) reported hunting "coots or snipe." Less than 2% (391 individuals) hunted "rails or gallinules." Similarly, only 26 individuals reported hunting more than 31 woodcock. Clearly, rails and shorebirds are no longer pursued with the same enthusiasm as other game species. Some have even argued that since these birds are no longer intensively hunted, they enjoy a kind of de facto protection, yet this is a weak argument. We should extend legal protection to all species that warrant protection. Current bag limits on shorebirds and rails are a nostalgic leftover from the Edwardian Age—in short, they should be eliminated.

Moreover, several species of ducks that we more readily consider game species may no longer deserve bag limits. Data gathered from all seasons, including but not limited to Breeding Bird Surveys, Christmas Bird Counts, winter waterfowl counts, and spring and fall data compiled through such sources

as this publication, all suggest that many species of ducks are never abundant, particularly in the Hudson Valley. It is questionable whether current numbers of teal, canvasback, eider, pintail, or scoter warrant upstate hunting at all.

Clearly, it is difficult to reach universally approved bag limits for game species because our idea of what constitutes a healthy or 'good' population is variable. Despite increasingly efficient population studies, our final judgment of how many birds should exist is entirely subjective. Canada Geese have now, due to increasing golf courses and suburban greens, multiplied to the point that many consider them a nuisance. No one could seriously argue for a moratorium on goose hunting these days, if only because too many of us often swear at having to scrape goose dropping from our shoes. We sanction the abundance of birds only when a particular species does not conflict with us. Eastern Bluebirds, for example, place no burdens on our lives, so we continue to wish them into hyperabundance, much like Ruby-throated Hummingbirds, Northern Cardinals, or even Mute Swans (at least so long as they don't attack children). Even when scientific evidence is available, our assessment of bird populations is always warped by our cultural prejudices.

Until recently, the only language available to discuss the value of game species, or any wild species for that matter, involved some form of economic consumption. Indeed, even the language used to justify the Migratory Bird Treaty argued that songbirds provided an indirect benefit to agriculture by devouring large quantities of "loathsome insects" (Forbush 1907). For more than a century, much of our management practices have rested on the assumption that it is best to have some economic incentive to protect birds and their habitats (Rasker 1992). Hunting, according to this belief, is good for the birds, because it motivates a section of the population (those who harvest birds) to actively campaign for preservation (Leopold 1933). Organisms that do not carry this economic incentive, say, New York's unique and diverse array of freshwater mussels, have a smaller chance at survival. Anecdotal evidence supports this theory, at least initially. I would argue that there are a great many more in our state who are concerned about preserving black ducks than saving the shrinking population of Tidewater Mucklets.

The free-market model for conserving species fails to consider a real shift in our perception of wildlife that began in earnest a half-century ago, one that values wildlife independent of its commercial potential. Specifically, in reference to New York's bag limits, it is the duty of the state not only to preserve game species for the enjoyment of hunters, but also for those of us who derive our primary recreation from simply observing them. Aesthetic consideration should be evaluated equally with traditional hunting and commercial values. While it is true that birding contributes significantly to the economy of our state, I argue that my right to observe a bird is independent of my economic contribution. Despite the fact that most habitats occur on private land, the public legally owns all game birds. Before that King Eider dropped out of some Labrador's mouth into the boat of its master, it was common property—mine as well as the hunter's.

My suggestion is not to eliminate hunting. I do, however, believe we should reevaluate the list of game species in our state, creating a set of bag limits that considers more than a century of freshwater habitat destruction and other environmental pressures. We can no longer sanction outdated regulations simply

because it is cheap and politically expedient to do so. My greatest hope is that the practice of simply watching eiders develops a body of legal right and priority as rich as the ancient privilege to shoot them from the sky.

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