



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

September 29, 1975

ATTORNEY GENERAL OPINION NO. 75- 384

Mr. Phillip M. Fromme
Coffey County Attorney
100 North 3rd
Burlington, Kansas 66839

Re: Federal Migratory Treaty Act--Violations--Prosecution

Synopsis: Provisions of K.S.A. 32-156a and -156b, as amended, were designed to adopt the provisions of the Federal Migratory Treaty Act and prosecutions under the same may be appropriately filed in county courts in this state.

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Dear Mr. Fromme:

You have requested an opinion from this office relative to whether the provisions of K.S.A. 32-156a and -156b were intended to adopt the provisions of the Federal Migratory Treaty Act (16 U.S.C.A. §§ 703 through 710), and whether a county court is empowered with jurisdiction to prosecute violations of this act.

K.S.A. 32-156a, as originally adopted, erroneously incorporated the term "lawfull" where it should instead have read "unlawful." That mistake, which caused much confusion, has been corrected by the 1975 Legislature which amended K.S.A. 32-156a to read as follows:

"The term 'migratory birds' as used in this act shall include such birds as are defined under the administrative provisions of said 'the migratory bird treaty act' and regulations now in force or hereafter adopted pursuant to sections 3 and 4 of said act, title 16, chapter 7, U.S.C.A.

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And it shall be *unlawful* to hunt, shoot, kill, pursue, take or attempt to take or possess, or buy, sell or offer to sell, by any means or in any manner, any such migratory bird or birds in Kansas, except as may be authorized and permitted by federal regulations now in force or hereafter adopted pursuant to authority provided in sections 703 to 710 of the migratory bird treaty act, and as amended." [Emphasis added.] (Ch. 224, Laws of 1975.)

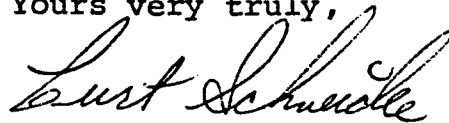
The provisions of this amendment are now in effect, and we believe the earlier ambiguity has been alleviated.

In answer to your question whether violations of Kansas' migratory bird act may be prosecuted in county courts we note K.S.A. 20-808 which provides:

"County judges in their respective counties, shall have, in civil actions, the powers and jurisdiction which are prescribed in chapter 61 of the Kansas Statutes Annotated, and any acts amendatory thereof or supplemental thereto, and said court shall have, within the county where it is located, the jurisdiction, power and duty, *in cases in which a violation of the laws of the state is charged*, to conduct the trial of misdemeanor charges and the preliminary examination of felony charges." [Emphasis added.]

It appears clear from the foregoing that to the extent violations of the Kansas migratory bird treaty act are prosecutable under K.S.A. 1974 Supp. 32-165 county courts are empowered with the jurisdiction to hear such cases. Accordingly, it is the opinion of this office that violations of said act may be properly prosecuted in county courts of this state.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

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