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ing of such bird, nest or egg is prohibited by this Act. 1933, c. 16, s. 4<sup>th</sup>.

It therefore appears evident that the possession of a migratory bird is illegal, unless it is during the period in which the Act allows their capture or killing.

Now, certain regulations have been adopted under The Migratory Birds Convention Act and those regulations indicate certain periods during which migratory game birds may be killed or taken under certain conditions; but the same regulations clearly declare that in the case of migratory non-game birds, it is absolutely prohibited to kill them or to take them at any time and any place. It is section 3 of the general regulations which so stipulates and the only exception allowed relates to the Indians and Eskimos, who may take certain varieties but under certain very restrictive conditions.

Consequently, according to the law, it is always prohibited to have in one's possession migratory non-game birds unless a lawful excuse is given.

The accused gives two reasons as excuse,

namely: (a) he claims that this section 6 prohibits the possession of such birds only when they have been captured or killed in close season; (b) that the bird seized is a pigeon or a swallow and not a tern.

Regarding the first point, he claims that the Act cannot prohibit the capture or the killing of birds outside the limits of the territory where its jurisdiction is exercised; now, as it is shown by the evidence that the bird seized in this case has been imported from France, the consequence is that this section has no application. For that purpose the learned attorney of the accused has quoted at length the Convention adopted between Canada and the United States of America, and he even supported his view by the parliamentary debates in the House of Commons when that Act was passed.

It seems that the arguments used for that purpose are somewhat subtle and cannot, certainly, be taken into consideration when section 6 of the Act is so clear, simple and complete. If the legislator had not wanted to apply the law in the case of birds killed