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# THE WILDLIFE PROFESSIONAL

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# The Legacy of Lacey

## WHO WAS THE MAN BEHIND THE U.S.'s FIRST NATIONAL WILDLIFE LAWS?

By Susan D. Jewell

**M**any of the strongest conservation laws in the United States originated in the late 1800s under John Fletcher Lacey's leadership in Congress, yet few people who now work under those lasting laws—or benefit from them—know of this conservation titan.

How did this Civil War officer-turned-legislator become known as “father of conservation legislation” ([DelHomme 2022](#))?

The late 19<sup>th</sup> century may have marked the onset of consciousness for natural resource conservation in the United States, inspired by two escalating dilemmas. Biologists from the U.S. Department of Agriculture were noticing increasing imports of wild mammals and birds from abroad. When people then released those animals into the wild, they unleashed damage to natural and agricultural resources. Introduced carnivores preyed indiscriminately. Nonnative birds devoured agricultural crops.

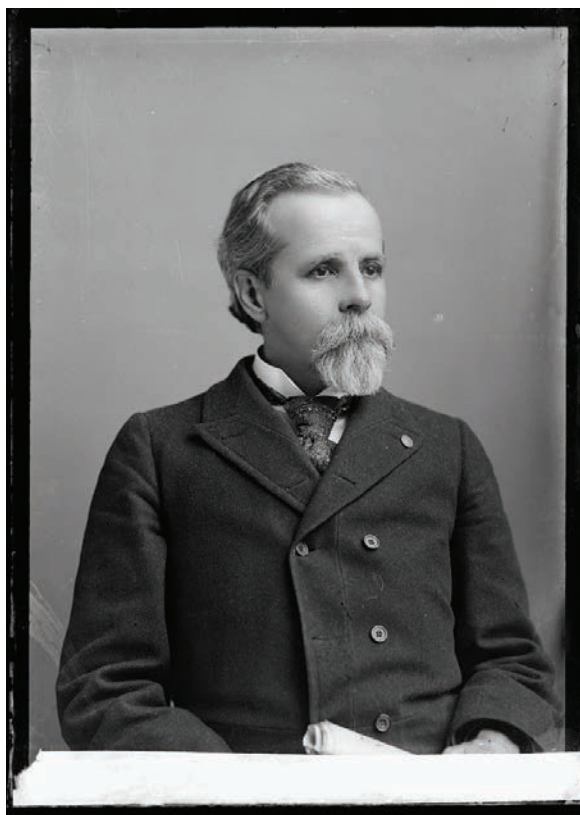
Meanwhile, uncontrolled market hunting was also escalating. Poachers eluded prosecution by shooting game in one state and secretly transporting their harvest to another.

These conservation tribulations got the attention of a congressman from Iowa, who was determined to solve them.

### A major force

Born in 1841 in New Martinsville, Virginia (now West Virginia), John Lacey moved with his family to a farm on the Des Moines River in Oskaloosa, Iowa, when he was 14. The cross-country travel and farm life nurtured his life-long interest in the natural world—especially birds.

At the outbreak of the Civil War in 1861, Lacey joined the Union Army and served until 1865, attaining the rank of major. After the war, he studied law in the evenings and was admitted to the Iowa bar in 1865, whereupon he became a lawyer for a railroad company.



Credit: C.M. Bell (C.M. Bell Studio Collection, Library of Congress)

His knowledge of the law became a springboard into politics. Lacey served in the Iowa House of Representatives from 1869 until 1889, when he was elected to the U.S. House of Representatives. After losing his first reelection campaign, Lacey went on to serve seven more terms in Congress before stepping down in 1907.

At the time he took office, public lands conservation was not much of a political platform. But Lacey mixed his conservation interests with his legal knowledge, leading to a string of national conservation laws that endure to this day. As a member of the House Public Lands Committee—including 12 years as its chairman ([Gallagher 1981](#))—Lacey was so effective in getting conservation laws passed that the name “Lacey Act” is still used to describe several still in effect.

◀ Serving in the House of Representatives for eight terms from 1889 to 1907, John F. Lacey was the force behind the first national wildlife protection legislation—laws that still protect national parks, national forests, and antiquities. Photo circa 1891 to 1894.





Lacey's first significant conservation law was the Forest Reserve Act of 1891, which he helped draft. He then drafted the Yellowstone Protective Act (also known as the Lacey Act of 1894) to safeguard wildlife and other natural resources in the young park from poaching. Lacey also introduced and was instrumental in the passage of the Antiquities Act of 1906 (DelHomme 2022). These laws and others still exist in some form today, creating and protecting our national public lands and cultural resources.

### Emerging problems

In the late 1800s, the globalized transport of foreign wildlife was affecting many parts of the world, including the United States. A USDA report (Palmer 1898) explained what was happening. Some species were accidentally coming aboard ships. Others were intentionally imported and released. Among the most troublesome were rats and mice, European rabbits (*Oryctolagus cuniculus*), mongooses (*Herpestes mungo*), domestic cats (*Felis catus*) and large fruit-eating bats.

Farmers were becoming concerned. English sparrows (*Passer domesticus*) and European starlings (*Sturnus vulgaris*), first introduced to New York City around 1850 and 1872, respectively, quickly spread across the country. Along the way, they devoured wild and cultivated seeds, grains and fruits, driving out native birds.

The economic harm caused by the variety of introduced mammals and birds alarmed USDA staff, who dutifully informed Congress. Domesticated species were also occasionally released, and some of those became invasive, too, but they caused less alarm.

During the same period, hunters were killing native wild game mammals, as well as insectivorous and game birds, in violation of state laws. They then shipped the carcasses to markets in other states, where the hunters couldn't be prosecuted. Bison (*Bison bison*), elk (*Cervus canadensis*), and deer populations were depleted by market hunting. Greater prairie-chickens (*Tympanuchus cupido*) and passenger pigeons (*Ectopistes migratorius*) were slaughtered for food markets. Egrets and Carolina parakeets (*Conuropsis carolinensis*) were killed for plumes to adorn hats.

Game wardens in multiple states lamented that they could not stop the slaughter and subsequent

trafficking without laws prohibiting interstate transport of the illegally obtained wildlife.

### Lacey's solution

As a member of the 56<sup>th</sup> U.S. Congress, Lacey was cognizant of the USDA's documentation of the growing national problem of injurious wildlife (Palmer 1898). On May 25, 1900, eight years after embarking on a quest to protect native birds, Lacey's bold conservation bill passed.

It included several provisions to combat the problems taking place (U.S. Congress 1900; U.S. Congress—House 1900). Lacey's desire to protect native birds that were considered useful in some way—such as for food or as predators of agricultural insect pests—led him to introduce a section of the bill that gave the agriculture secretary the authority to purchase and reintroduce some insectivorous and game birds that were going locally extinct. Although the bill had no official name, it came to be referred to as “the Bird Bill,” or sometimes “the Lacey Act,” and it became the precursor to subsequent game and migratory bird laws.

One of the law's main thrusts had a broad effect that made it known to natural resource professionals in every part of the country. The law prohibited the interstate commerce of wild game mammals—as well as birds useful as game or as insectivores—that were killed in violation of existing laws. This purpose was aimed at preventing market hunting and poaching.

Decades later, the provision was expanded to include all wildlife and plants, making it unlawful to import, export, transport, sell, receive, acquire or purchase any fish or wildlife or plant taken, possessed, transported or sold in violation of any law, treaty or regulation of the United States or in violation of any Indian tribal law. The amended provision, sometimes known as U.S.C. 3371-3378, or Title 16, is now often referred to as the wildlife and plant trafficking provision of “the Lacey Act.”

The other main purpose of the 1900 bill was to authorize the agriculture secretary to control the importation of foreign wild mammals and wild birds into places they had not previously existed. Lacey made it unlawful to import any foreign wild mammal or bird except by permit from the USDA. The bill also declared that certain wild mammals and birds were considered by the USDA to be harmful enough to ban them unconditionally.



These were the wildlife species to be deemed “injurious,” a term used at the time to refer to a pest or noxious organism. No permits would be granted for injurious species, and no live specimens would be allowed into the country,

with exceptions made for natural history specimens and for certain caged birds, such as canaries and parrots. The injurious law has had several amendments since 1900, but it survives to this day as [Title 18](#).

The “Lacey Act” Summarized—1900 and Now

Injurious Wildlife	Wildlife Trafficking
1900 – Original	
<p><i>“[T]o regulate the introduction of American or foreign birds or animals in localities where they have not heretofore existed”</i></p> <p>Unlawful to import into the United States any foreign wild animal or bird except under special permit from USDA; injurious species were unconditionally prohibited: mongoose, fruit bats, English sparrow, starling; Secretary of Agriculture may designate additional wild mammal or bird species.</p> <p><b>This was primarily to stop the importation of foreign wild mammals and birds (no other taxa) that were harming American agriculture and wildlife.</b></p>	<p><i>“[T]o prohibit the transportation by interstate commerce of game killed in violation of local laws”</i></p> <p>Unlawful for any person or persons to deliver animals . . . to any common carrier, or for any common carrier to transport from one state or territory to another . . . any foreign animals or birds the importation of which is prohibited, or the dead bodies or parts thereof of any wild animals or birds, where such animals or birds have been killed in violation of the laws of the state, territory or district in which the same were killed.</p> <p><b>This was primarily to protect U.S. native mammals and birds (no other taxa).</b></p>
1960 Amendments (Current)	1981 and 2008 Amendments (Current)
<p><b>18 U.S.C. §§ 42 (Title 18)</b></p> <p>Wild mammals, wild birds, fishes, amphibians, reptiles, mollusks and crustaceans found through regulation or Congressional action to be injurious to the interests of human beings, agriculture, horticulture, forestry, wildlife or wildlife resources of United States</p> <p>Unlawful to import into and sometimes transport within United States species designated as injurious wildlife (except with permit). Species currently listed in 50 CFR 16.11-15 include certain wild mammals, wild birds, fishes, reptiles, reptiles, amphibians, mollusks and crustaceans that are injurious to the interests of human beings, agriculture, horticulture, forestry, or to wildlife or wildlife resources of the United States.</p> <p><b>This is primarily to stop the importation of foreign wildlife species of the above taxa that can harm U.S. natural resources and other interests.</b></p>	<p><b>16 U.S.C. §§ 3371-3378 (Title 16)</b></p> <p>Provides law enforcement assistance to states and other jurisdictions with intercepting illegal importation and interstate transport of fish and wildlife species and plants taken or possessed in violation of state, federal, tribal or foreign laws</p> <p>Unlawful to import, export, sell, acquire or purchase fish, wildlife or plants that are taken, possessed, transported or sold in violation of any law, treaty or regulation of United States or in violation of any Indian tribal law; or in interstate or foreign commerce involving any fish, wildlife or plants taken, possessed or sold in violation of state or foreign law.</p> <p><b>This is a broad trade and conservation law that combats illegal trafficking in wildlife and plants; applies to indigenous species and foreign laws primarily to protect natural resources in their native lands.</b></p>

◀ The original “Lacey Act” created laws that regulated “animals” (the contemporaneous term for mammals, which was updated to “mammals” in 1960) and birds. Significant changes that reflect the current laws occurred with the injurious provisions (Title 18) in 1960 and to the wildlife and plant trafficking provisions (Title 16) in 1981 and 2008. Text in quotes is from the statutes. All other text is a summary or paraphrase of the statutes.



► The Mariana fruit bat (*Pteropus mariannus*) was listed on the first list of injurious wildlife species in 1900 and has been listed as injurious since then. The purpose of listing was to prevent the species from being introduced to other U.S. Pacific islands and the U.S. mainland, where it could devour fruit crops.



Credit: Julia Boland/U.S. Fish and Wildlife Service

Lacey introduced the provisions for game birds, wildlife trafficking and injurious wildlife in the same bill because they were all related to national conservation, which was a novel idea for Congress at the time. The provisions were often referred to collectively as “the Lacey Act,” leading to never-ending confusion by the public. Over the ensuing decades, the provisions were amended, but they remain—scattered in separate places in the United States code.

### Injurious wildlife

The injurious wildlife species law, like the trafficking law, has been in force continuously in some form since 1900. The USFWS administers the wildlife and plant trafficking law (Title 16) through the Office of Law Enforcement’s special agents and wildlife inspectors and coordinates with the International Affairs Program for international conservation. Title 16 is the provision that most natural resource biologists and managers know of as “the Lacey Act” because it supports many of the United States’ laws for the conservation of native fauna and flora.

While Title 16 is separate from the injurious law (Title 18), the two have a relationship. For example, a Title 18 violation may be compounded by a Title 16 violation if the illegal importation of an injurious species also violated another federal, state, tribal or foreign law.

The injurious wildlife law has remained much the same since the last major amendments were passed

in 1960 (U.S. Congress 1960, Jewell 2020). The current law provides authority to the Interior Department (which it delegated to the U.S. Fish and Wildlife Service) to regulate any wild animals determined to be injurious to humans, agriculture, horticulture, forestry or wildlife or wildlife resources.

The great strength of the injurious wildlife listing authority is that the Service can list a species as injurious and prohibit its importation before the first individuals ever set foot or fin in the United States. This is the most efficient line of defense the Service has against invasions of wildlife and some zoonotic pathogens. The Service has frequently listed species before introduction. Since the agency listed its first species in 1952, 94% of the species that were listed for invasive traits were not established at the time. None of those species are confirmed to be currently established (Jewell and Fuller 2021).

The other 6% were added to the injurious list either by the Service or by Congress after they were already causing harm. Those are usually the ones that make the news because they are so numerous or harmful—species such as the silver carp (*Hypophthalmichthys molitrix*), Burmese python (*Python bivittatus*), zebra mussel (*Dreissena polymorpha*) and mitten crabs (*Eriocheir* spp).

There are still benefits to listing species if they are already established. Listing them provides an example of why similar species should be listed if they share the same traits. It also reduces the opportunity for individuals to enter new areas of the country that they couldn’t otherwise access. And it can reduce the opportunity for diseased or particularly hardy individuals to be imported. Listing can make technical information available to states and other jurisdictions that may be considering similar regulations of their own. And it can help keep the public informed of the harm the species can cause if acquired as a pet or for other purposes.

### A lasting legacy

The 1900 bill gave the authority to restrict importations to the USDA. However, when a government reorganization created the Fish and Wildlife Service in the Interior Department in 1940, Congress transferred oversight of Lacey Act laws to the new agency. Since then, the Service has had the authority to add species to the injurious wildlife list by regulation. The injurious wildlife law had major changes in 1960, but only minor ones since then.





More recently, under the heavy pall of the SARS-CoV-2 pandemic, Congress passed the [American Rescue Plan Act of 2021](#). It included a section asking the Service to use its Title 18 authority to promulgate regulations to add wildlife species to the list of injurious wildlife if they can carry a pathogen that can harm humans. This opportunity to possibly prevent a pandemic caused by wildlife is a testament to the lasting influence of John Lacey's foresight.

After leaving national politics, Lacey returned to a private law practice, but he continued to promote legislation. Still a champion of protecting native birds that were going extinct, he strove to prevent the shooting of birds on migration and for market hunting. Then-Secretary of Agriculture David Houston appointed Lacey to a committee to draft the regulations for migratory bird protection. Although he didn't succeed in getting legislation passed while in office, later laws benefitted from his foundational work. Lacey passed away on September 29, 1913, before he could see the Migratory Bird Treaty Act of 1918.

"Out of all the achievements of Major Lacey ... one fact looms up prominently and dwarfs all others,"

noted William T. Hornaday, former director of the New York Zoological Society and a contemporary of Lacey. "He was the first American Congressman to become an avowed champion of wild life ([Pammel 1915](#))."

Over a century after his death, Lacey's legacy still looms large. Our country's national forests, national parks, national monuments, indigenous artifacts and native flora and fauna have one persistent politician to thank for setting the foundation of many of today's national conservation laws. ■

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*The findings and conclusions in this article are those of the author and do not necessarily represent the views of the U.S. Fish and Wildlife Service.*



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