

Unbelievable Antics In Washington D.C.

Humorist Will Rogers once quipped “I don’t make jokes. I just watch the government and report the facts.” A recent visit to Washington D.C. gave us a new appreciation for Rogers’ wisdom. The occasion was a NAMM-sponsored lobbying effort that brought together a group of luthiers, guitar manufacturers, and retailers to try to persuade lawmakers to amend the controversial Lacey Act. (See full report on page 52.)

Originally passed in 1900 to protect snowy egrets that had been hunted to the verge of extinction to supply feathers for the ladies’ hat trade, the Lacey Act was largely uncontroversial until one night in May 2008. On that fateful evening, as Congress was working under intense pressure to pass a massive farm bill that disbursed billions in agricultural price supports—farmers apparently get testy if their checks are late—the Oregonian delegation quietly slipped in an amendment that extended Lacey coverage to plant life, including wood. Their motives have never been clearly articulated, but the amendment has since been embraced by the U.S. timber industry and environmental groups, who see it as a vehicle for keeping imports out and protecting the world’s forests.

The farm bill passed, pulling along the Lacey amendment that few if any in Congress read, and the next morning, most of the music industry became a criminal enterprise. Under the new law, manufacturers, retailers and even consumers had to be able to document the genus, species, and source of the wood used in all musical instruments, and verify that the wood had been cut in accordance with all local laws. Any lapse in reporting would result in fines, forfeiture, and even possible prison sentences. A few months later, as if to say “we’re not kidding,” the Fish and Wildlife Service, supported by a contingent of armed FBI agents, stormed the Gibson plant, invoking the Lacey Act. This convulsed the industry with fear, and sent them scurrying to the Capital begging for relief. Which brings us to the NAMM lobbying effort.

At the urging of NAMM, Congressman Jim Cooper, an affable man who could also be the world’s only banjo-playing Rhodes Scholar, introduced an amendment to the Lacey Act that would help keep guitar makers, sellers, and players from crowding the prison system. His modest proposal contained three basic provisions: one that would exempt pre-2008 instruments from Lacey provisions; an “innocent owner” provision that would exempt unknowing owners and sellers from prosecution; and a reduction in the paperwork requirements for those who import wood and finished products containing wood. NAMM then organized a delegation to meet with lawmakers to drum up support for the amendment.

The blowback was immediate and ferocious. An unlikely coalition of environmental organizations, joined by the United Steelworkers and the AFL-CIO, blanketed Congress and the internet with press releases charging that moving as much as comma in the Lacey Act (that no one read back when it was passed) would result in the death of the world’s forests, child slave labor, thousands of lost American jobs, and a list of other dire evils too lengthy to list here.

Actual responsibility for enforcing Lacey and, thereby preventing imminent Armageddon, falls to two (yes, just two) mid-level government employees working for the Plant Quarantine division of the Animal Plant Health Inspection Service (APHIS). Initially, the duo was so overwhelmed by the flood of Lacey import declarations that top officials arbitrarily waived import filing requirements on thousands of wood products. That’s why imported acoustic guitars need a Lacey declaration but electric guitars do not. The number of Lacey import declarations was subsequently cut to 9,200 a week, but the beleaguered APHIS officials still concede they can only review a fraction of them. The rest, it is assumed, accumulate unread in an unmarked warehouse somewhere.



Just when NAMM members were breathing a little easier that the odds of being snared on a technical Lacey violation were slim, a Fish and Wildlife official set things straight. “I think you’re all criminals,” he declared, and it didn’t appear that he was being ironic. To a luthier who asked about securing an exception for a supply of wood that had been accumulated over

decades, he replied, “You still need documentation.” Pleas to speed up the approval process from months to weeks for exporting vintage instruments with ivory parts were received with all the enthusiasm of a Department of Motor Vehicles clerk.

It’s hard to say which is more slipshod: the legislative process that produced the Lacey amendment or the actual enforcement of the act. The scorching rhetoric of the environmental groups is also somehow detached from reality. The music products industry has a vested interest in sustaining tropical hardwoods, and its request for Lacey relief is not a call to clear-cut Central America and Southeast Asia. Furthermore, when the biggest cause of deforestation is agriculture and ranching, it’s doubtful that passing unenforceable laws in Washington will have make a difference. We think Bob Taylor of Taylor Guitars has a better idea. He recently purchased an ebony mill in Cameroon, Africa where he will be cutting ebony parts for guitar makers worldwide. If the locals have a vested interest in a steady supply of wood, he reasons, they will be better stewards of the forest. The story in Cameroon is still unfolding, but it is an effort that bears watching.

Amidst the clamor in the Capitol, NAMM is making headway amending a poorly drafted law, so the industry can function and thoughtful people can address the hard issue of how to preserve scarce wood resources for generations to come. Witnessing up close cavalier lawmakers who pass laws with little thought about their impact, and government bureaucrats who mindlessly enforce them, can be dispiriting. But at least there is some recourse, and as Churchill observed, “Democracy is the worst form of government except all the others that have been tried.”

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