

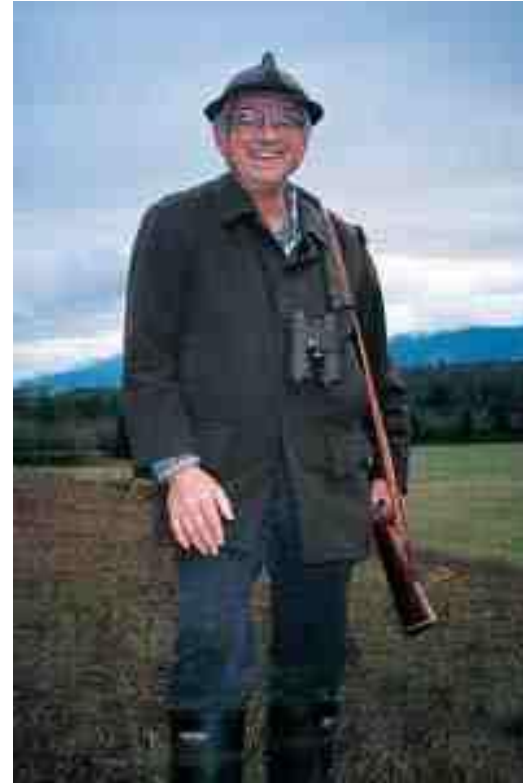
**The North American Model
of Wildlife Conservation
Introduction and Origins**

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Wildlife Board**


North American Model: Origin of a Concept





North American Model of Wildlife Conservation

- Organ, J.F. 2018. ***The North American model of wildlife conservation and the public trust doctrine.*** Chapter 13, pages 125 – 135 in B.D. Leopold, W.B. Kessler, and J.L. Cummins, eds., *North American Wildlife Policy and Law.* Boone and Crockett Club, Missoula, Montana, USA.
- Mahoney, S.P., and V. Geist, editors. 2019. ***The North American Model of Wildlife Conservation.*** Johns Hopkins University Press, Baltimore, Maryland, USA.
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- Geist, V., and I. McTaggart-Cowan. 1995. ***Wildlife Conservation Policy*** Detselig Press, Calgary, AB
- Geist, V., S.P. Mahoney, and J.F. Organ. 2001. ***Why Hunting Has Defined the North American Model of Wildlife Conservation*** *Trans. North Amer. Wildl. Natur. Res. Conf.* 66:175-185.
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NA Model: Origin of a Concept

- As Wildlife Conservation emerged in North America a distinct form developed
- The 7 Components, Tenets, or Principles are not all unique to North America, but their collective association is
- The NA Model is not prescriptive; the term “Model” is intended to mean “Example”
- Its purpose is not to outline every conservation strategy and approach; only highlight those legal/policy underpinnings that collectively make North American conservation unique

North American Wildlife Conservation Precepts

- Wildlife has value when alive
- Uncontrolled use leading to decline & extinction unacceptable
- Wildlife is a public resource: governments conserve for current and future generations
- Wildlife can be perpetuated with sustainable use

Principles of Use

- Use serves a practical purpose
- Species or Population is not threatened or endangered
- Method of take is considered acceptable



North American Model of Wildlife Conservation

- Wildlife as Public Trust Resources
- Elimination of Markets for Game, Songbirds, and Shorebirds
- Allocation of Wildlife by Law
- Wildlife can only be killed for a Legitimate Purpose
- Wildlife is considered an International Resource
- Science is the proper tool for discharge of Wildlife Policy
- Democracy of Hunting

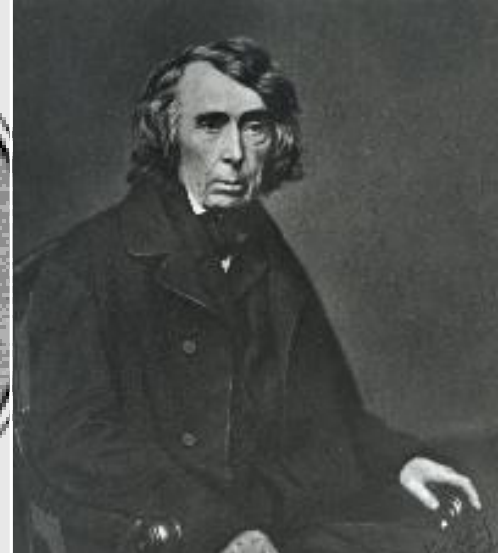


Wildlife as Public Trust Resources



The Public Trust Doctrine

- U.S. Supreme Court Ruling in 1842
- Magna Carta 1215
- Roman Law 2nd Century A.D.
- Ancient Greek Natural Law



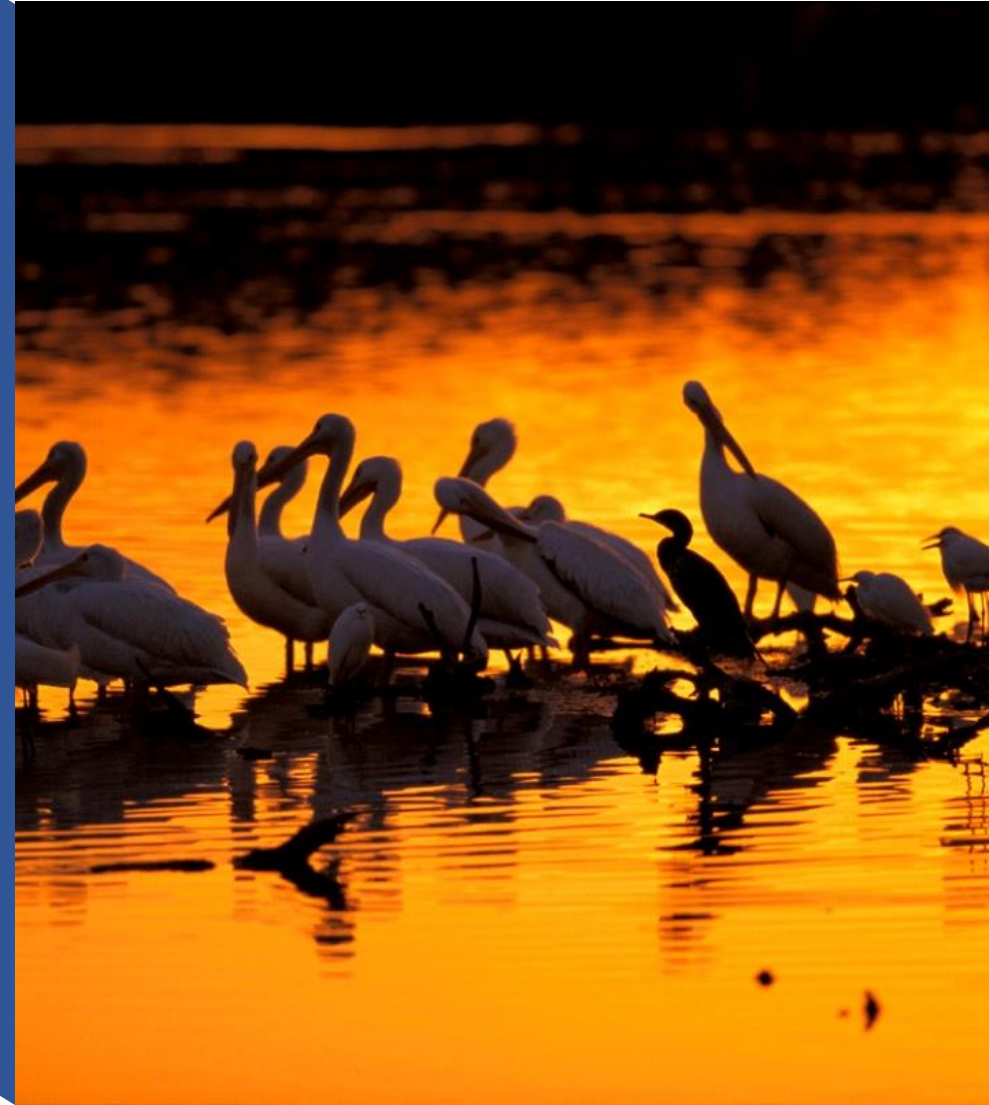
English Common Law

- Special Kinds of Property
- Held by King for benefit of Subjects
- Owned by King, but not for his use
- King is a **Trustee**, owning property for someone else: a special responsibility



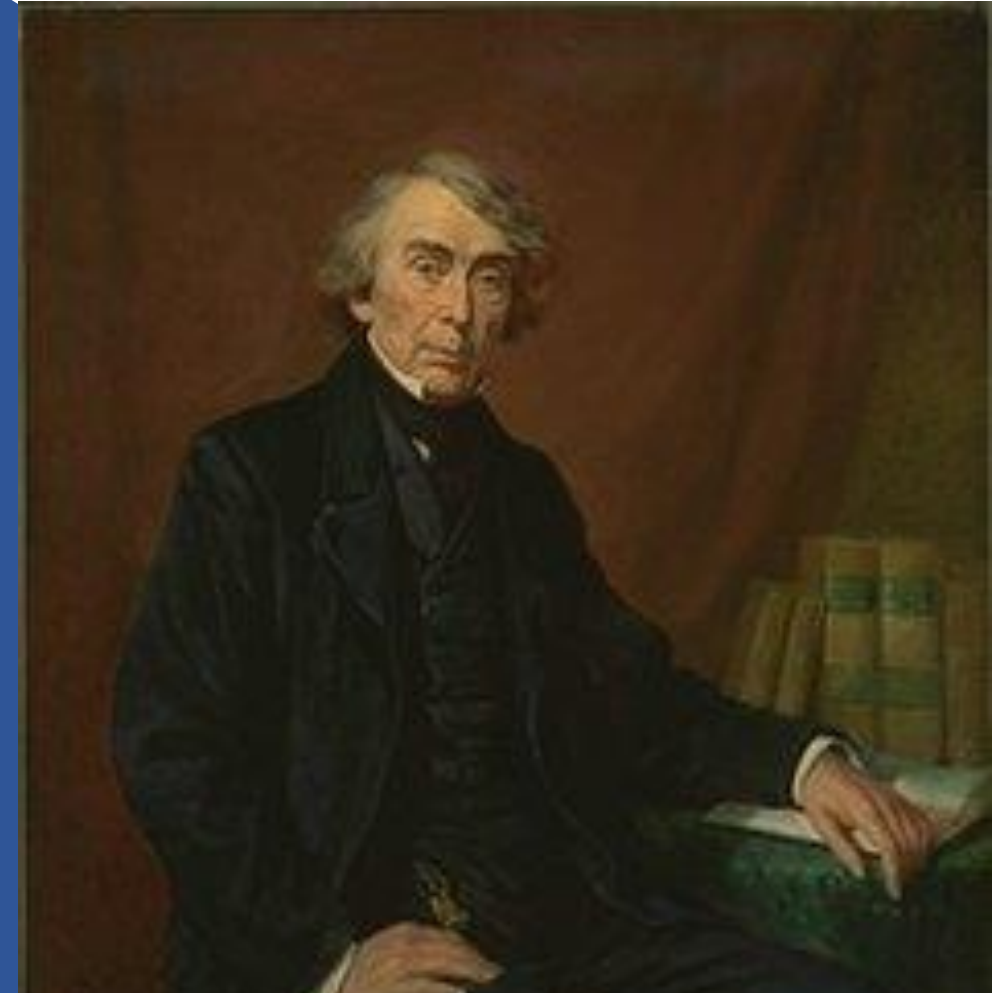
Trustee Status

- **Romans** – Not defined
- **English** – King
- **Spanish and Mexicans** – Territorial Governor



America

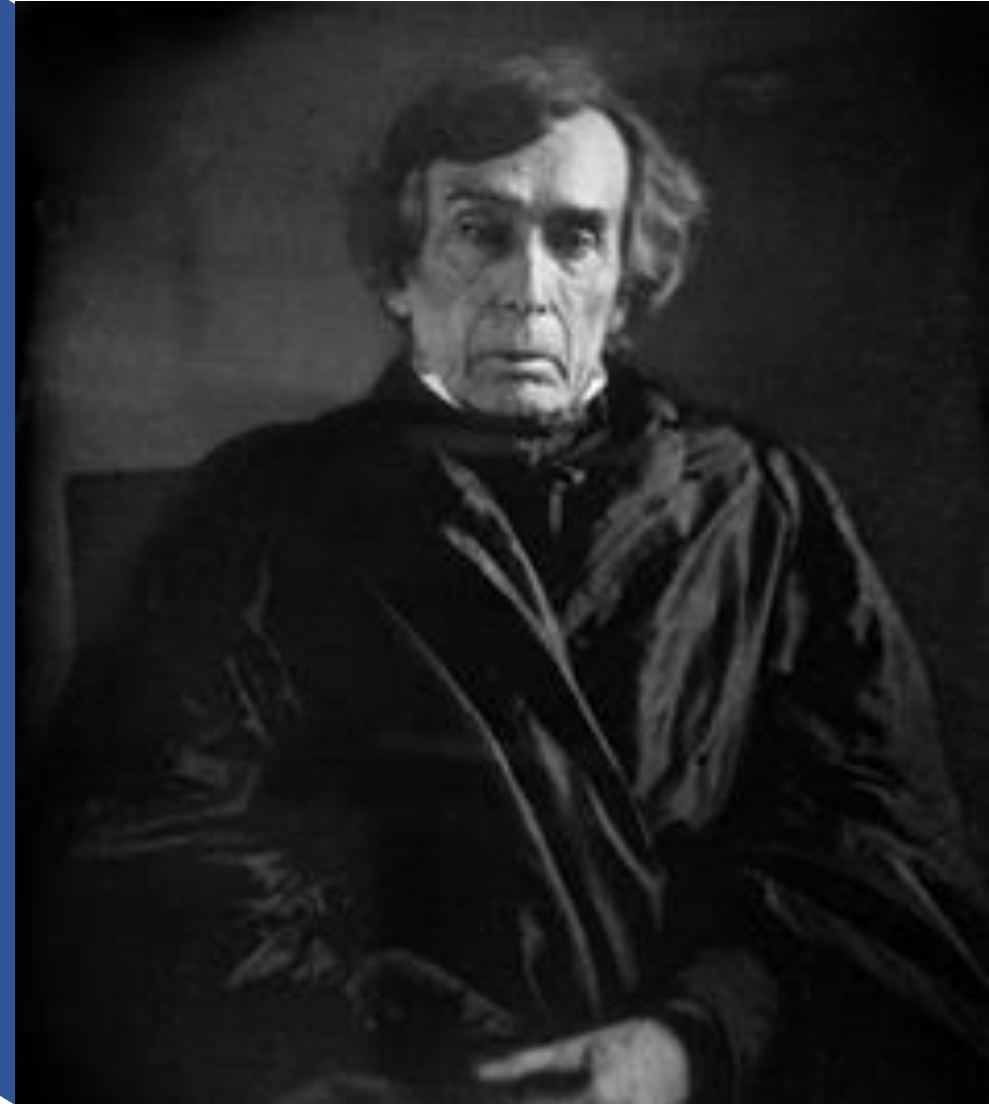
- English Law in Colonies
- Independence: no King to be Trustee
- Supreme Court, 1842, Trustee status ascribed to States (Martin v. Waddell)



Chief Justice Roger Taney

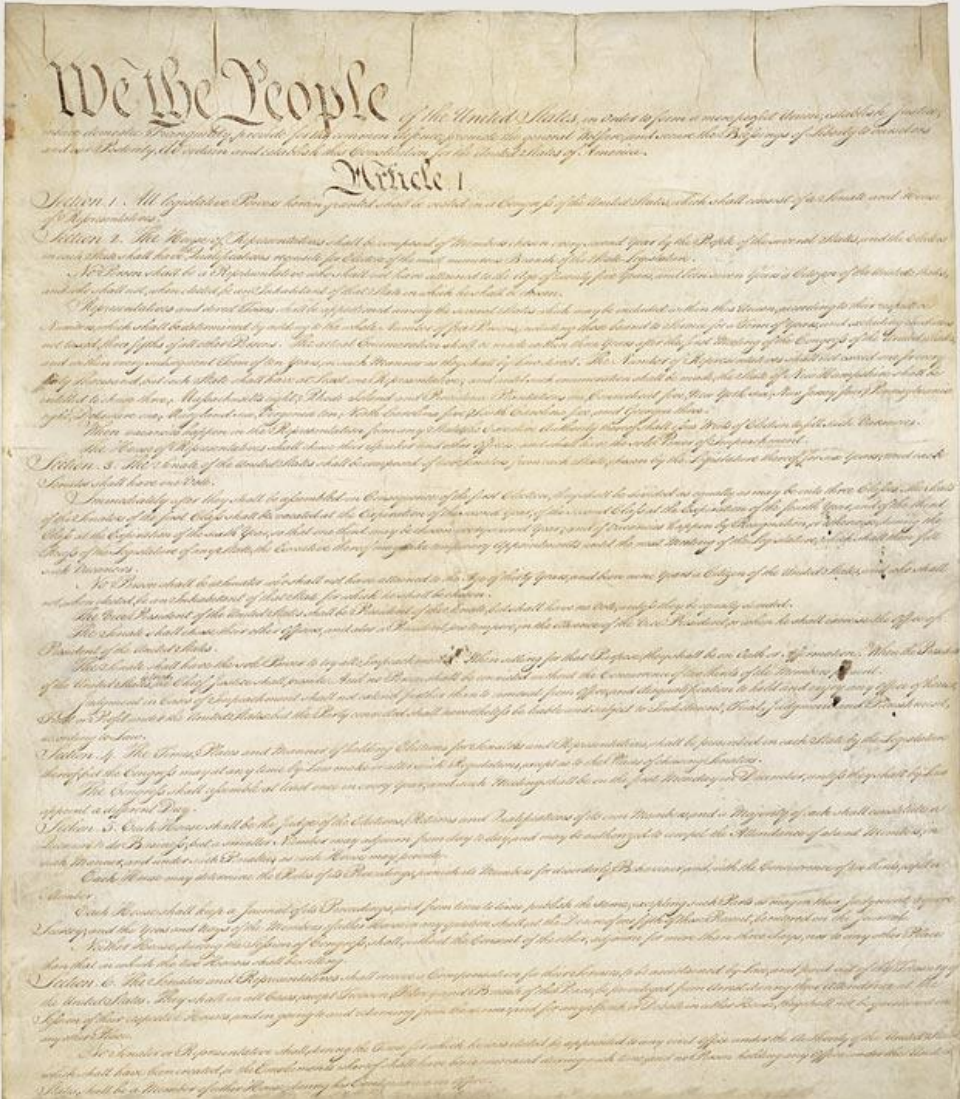
Martin v. Waddell

- Powers assumed by states “subject only to the rights since surrendered by the Constitution to the general government.”



Wildlife as a Public Trust Resource

- 1896: **Geer v. Connecticut** - “common property in game....control lodged in the State”
- **U.S. Constitution:** Commerce Clause, Property Clause, Supremacy Clause (Federal Treaty-making Power)



Public Trust Authority

- State Fish and Wildlife Agencies
- U.S. Fish and Wildlife Service



77.04.012 - Mandate of department and commission

- Mandate of department and commission.
- Wildlife, fish, and shellfish are the property of the state. The commission, director, and the department shall preserve, protect, perpetuate, and manage the wildlife and food fish, game fish, and shellfish in state waters and offshore waters.
- The department shall conserve the wildlife and food fish, game fish, and shellfish resources in a manner that does not impair the resource. In a manner consistent with this goal, the department shall seek to maintain the economic well-being and stability of the fishing industry in the state. The department shall promote orderly fisheries and shall enhance and improve recreational and commercial fishing in this state.
- The commission may authorize the taking of wildlife, food fish, game fish, and shellfish only at times or places, or in manners or quantities, as in the judgment of the commission does not impair the supply of these resources.
- The commission shall attempt to maximize the public recreational game fishing and hunting opportunities of all citizens, including juvenile, disabled, and senior citizens.
- Recognizing that the management of our state wildlife, food fish, game fish, and shellfish resources depends heavily on the assistance of volunteers, the department shall work cooperatively with volunteer groups and individuals to achieve the goals of this title to the greatest extent possible.
- Nothing in this title shall be construed to infringe on the right of a private property owner to control the owner's private property.



Public Trust
Foundation of the
North American
Model of Wildlife
Conservation

- Trust Resources considered to be **Property** in case law
- Must be held available for **general public use**
- **Traditional Uses:** e.g., Recreation, Fishery
- **Natural Uses** peculiar to that resource

Solidifying the Public Trust

- Concept of a Public Legal Right
- Enforceable against the Government
- Consistent with Contemporary Concerns



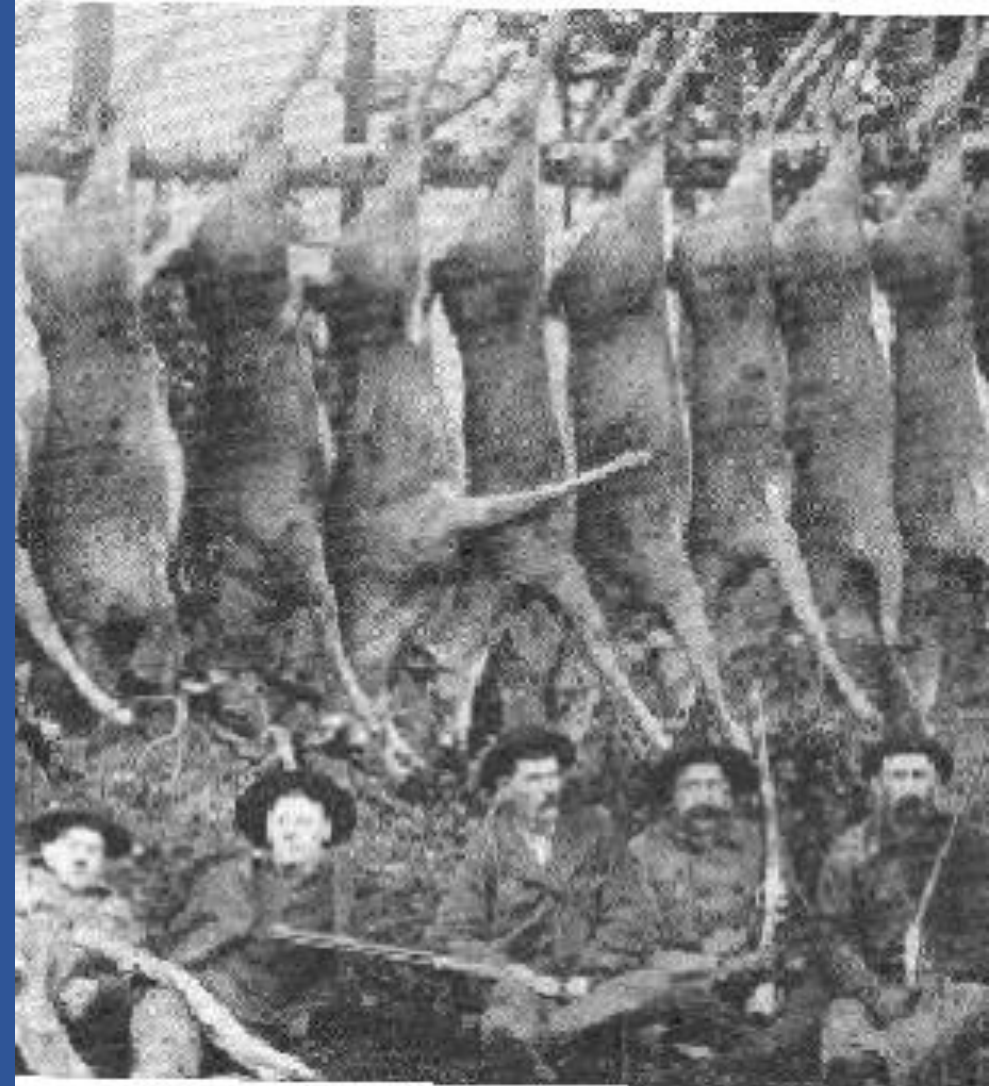
Solidifying the Public Trust

- Government's general obligation to act in public interest vs. **greater obligation as a trustee**
- Does PTD equate to a **judicially enforceable right?**



Elimination of Markets for Game, Songbirds, and Shorebirds

- “Commons” Theory
- Rapid declines when value placed on dead wildlife



Allocation of Wildlife by Law

- Surplus Wildlife are not allocated by market, birth right, land ownership, or special privilege
- Public input into allocation provides opportunity for all citizens to be involved in wildlife management
- Secures the Trust for future generations



Wildlife can only be Killed for a Legitimate Purpose

- Laws define acceptable purpose for take
- Code of sportsman mandates use without waste
- Food, Fur, Self-Defense, Property Protection



Wildlife is Considered an International Resource

- Recognition that wildlife transcend boundaries
- One Nation's management can affect the other's resources
- C. Gordon Hewitt
- CITES



Science is proper tool for discharging Wildlife Policy

- Roosevelt Doctrine
- Wildlife Profession (Leopold)



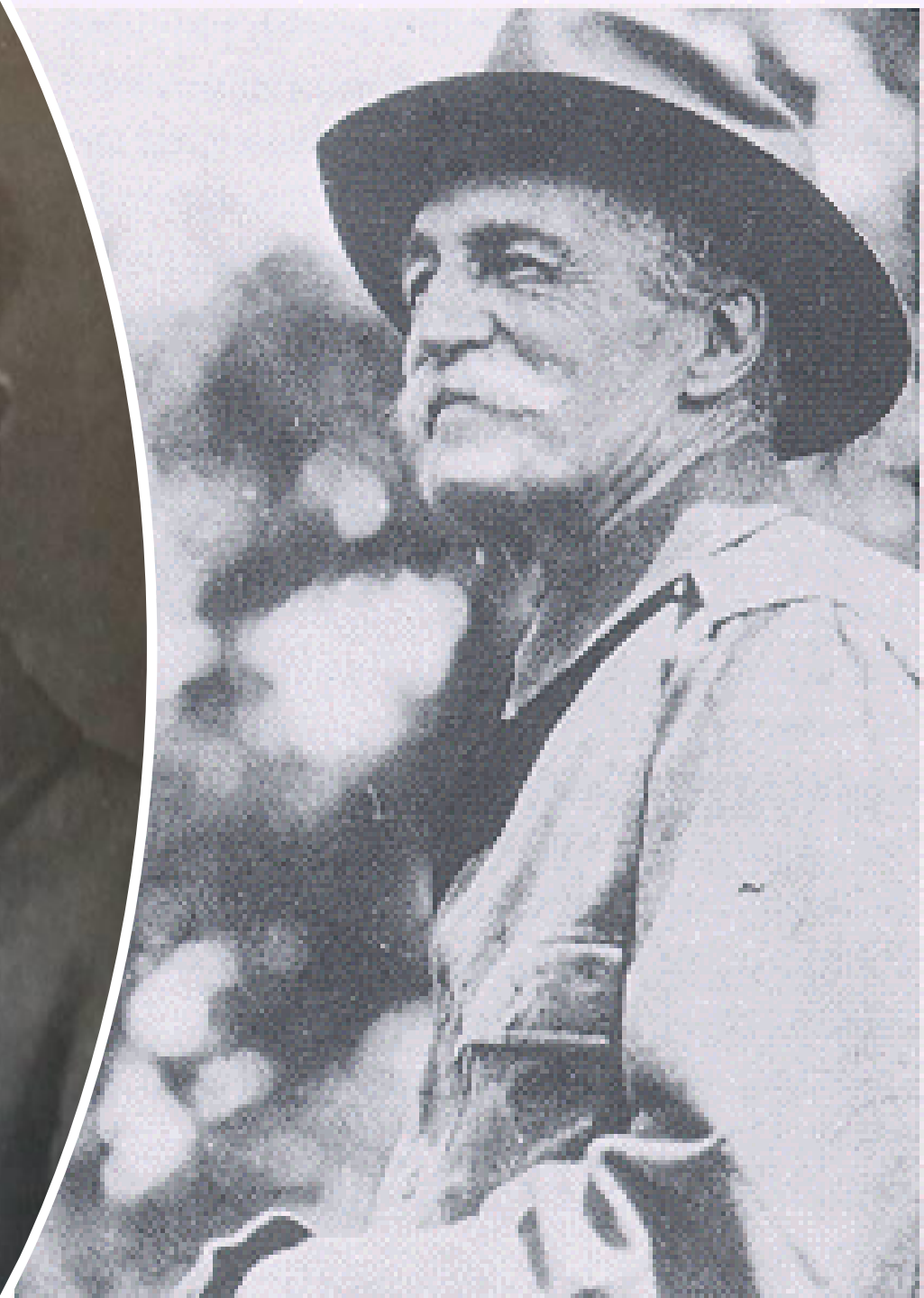
Roosevelt Doctrine

- Recognized “Outdoor Resources” as *one integral whole*
- “Conservation through wise use” a public responsibility, and private ownership a public trust
- Recognized *science as a tool* for discharging that responsibility



Expert Authority Model

- Based on Prussian Forestry System
- Professional Society establishes Standards
- University Academics provide training
- Government experts determine what is in best interest of public trust



Democracy of Hunting

- Regardless of Land Ownership, Birthright, or Special Privilege
- Abide by Societal Rules (Laws, Regulations)
- North America: broad interest in maintaining wildlife (all are stakeholders)



Democracy of Hunting

- Reduced access to land
- Increased fee-based hunting
- Shrinking societal support



The Future of the Model

- Model is compilation of core principles and policies that collectively distinguish North American wildlife conservation.
- Focus moving forward should be what further legal underpinnings do we need to meet emerging conservation challenges.

