

they intend to use this provision extensively in the future. Therefore, I believe that we should approach this issue with caution. The Senate's position on this is not well founded, and I would hope that the House conferees will take these observations into serious consideration during the conference.

Mr. Chairman, because of the high degree of controversy surrounding last year's debate, I believe that continued congressional oversight, and the adoption of the committee's amendments to perfect the act will serve to protect it.

Mr. BREAVUX. Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. Zablocki, having assumed the chair, Mr. Filippo, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9218) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, had come to no resolution thereon.

[From the Congressional Record, Oct. 25, 1979]

STATEMENT OF MR. YOUNG IN SUPPORT OF HIS PROPOSED AMENDMENT  
TO H.R. 2218, OCTOBER 24, 1979

ENDANGERED SPECIES ACT AUTHORIZATION

Mr. Young of Alaska. Mr. Chairman, the amendment that I am offering today will remove from the definition of "fish and wildlife" under the Endangered Species Act all invertebrate animals, such as snails, insects, spiders, clams, et cetera. This will conform the act with the original intent of Congress.

I first entered the Congress when the Endangered Species Act was being debated. At that time, our goals were clear, to prevent extinction of those birds and animals which were truly endangered by man's activities. The intent was not to save every last beetle and butterfly on Earth that was disappearing through natural processes of evolution; and it certainly was not our intent to call a halt to every activity in which man could engage.

Unfortunately, the interpretation of this act by well-meaning but misguided individuals has come to the point where man may be endangered if the act is fully enforced. In fact, as I look at the list of criteria for determining endangerment, I note that Alaskans meet 3 of the 5: our range is curtailed, we suffer under inadequate regulatory mechanisms, and other manmade factors affect our continued existence. Perhaps this Congress will agree to declare Alaska as critical habitat and get the Federal Government off our backs.

Finally, in Hawaii, the cave wolf spider is found only in one cave, which is listed as a civil defense shelter. If the shelter is ever needed, anyone who takes refuge there will be violating the Endangered Species Act.

Mr. Chairman, I could continue this for quite some time but I think I have made my point. The United States is in trouble, partially due to natural causes but mostly due to our own stupidity and short-sight-

edness. Our country needs energy and it needs transportation if we are to survive. We cannot continue to regulate and preserve ourselves out of existence. We can have a clean environment, a healthy, balanced population of fish and wildlife and plants, and still produce enough energy and enough minerals to keep us going. All I am saying is: Give us a chance to do so. Do not hamper us with laws and regulations that prevent us from continuing our lives. My amendment may not be the best solution, but it is a start.

In regard to my amendment, however, let me point out some of the problems that have been caused by invertebrates alone:

On the Duck River in Tennessee, completion of the Columbia dam was halted due to the listing of seven species of mussels, including the Cumberland monkeyface and the tan riffleshell. Only after the hard work of our colleague from that State—Robin Beard—did the Fish and Wildlife Service examine the area and discover that the mussels involved had been extinct in the Duck River for many years, thus allowing the dam to be finished.

On the Little Tennessee River, we are all aware of the conflict between Tellico dam and the snail darter. However, even if the snail darter did not exist, the project still would have been halted by the Anthony's river snail.

In Florida, the Florida tree snail threatens construction of a needed airport. In California, the El Segundo blue butterfly is hampering expansion of the Los Angeles airport.

Again in California, the New Melones dam was halted by the discovery of the cave harvestman spider. Only after further searches found other healthy populations was the dam completed.

At this time, Mr. Chairman, I would like to request that the chairman of the subcommittee, who has done so well on this bill, engage in a little colloquy with me.

Mr. Chairman, my main intent in offering this amendment is to make sure that those who enforce the Endangered Species Act do not enforce it to the detriment of people but that they enforce the act as it was intended by Congress.

If the gentleman wishes to ask me any questions, I would be glad to answer them.

Mr. BREAVUX. Mr. Chairman, if the gentleman will yield, I appreciate the gentleman's purpose in offering the amendment, and I thank him for his comments and for making his suggestions.

As the gentleman full well knows, we did make some changes last year in the 1978 amendments which prohibited the listing of endangered species individually, and now we have to look at them as a whole class of invertebrates.

We cannot pick out one and say, "Now, this particular invertebrate species is going to be in the endangered species classification," but we have now to look at the whole class of the species that fall in that category and make that determination.

I know the gentleman is trying to come up with a reasonable approach. I just want to say to the gentleman that the committee has not had an opportunity to hold hearings or to look into any of the problems we are having with invertebrate species.

Mr. Chairman, if the gentleman will yield further, I am very hesitant to support his amendment, and I will have to say that I oppose the gentleman's amendment.

There are some invertebrates that are very important, some that we want to protect. We want to be able to say that they are in the endangered species classification, and I can think of several, including shrimp species, mollusks, and some crustaceans in the invertebrates class. They are invertebrates, but yet they are very important to our food cycle, and there are some that should be in the category of species to be protected.

Mr. Young of Alaska. Mr. Chairman, it is my understanding, under the bill as proposed by the gentleman and the committee, that if there is any action concerning invertebrates that does not make real sense, we still have oversight privileges under the bill as members of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, of which the gentleman is chairman?

Mr. Brearix. Mr. Chairman, the gentleman from Alaska is absolutely correct. If we find during the course of the next 3-year authorization under this bill that they are not following the law as Congress intended, I give the gentleman from Alaska my commitment—and I know the gentleman from New York does also—that we will proceed very aggressively, as we have in the last Congress, to have oversight hearings and allow anyone to come in and say that this is not what Congress intended. We pledge that to the gentleman from Alaska.

[From the Congressional Record, Oct. 24, 1979]

#### HOUSE CONSIDERATION AND PASSAGE OF H.R. 2218

##### ENDANGERED SPECIES ACT AUTHORIZATIONS

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2218) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. Murphy).  
The motion was agreed to.

##### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2218, with Mr. Flippo in the chair.  
The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, October 22, 1979, all time for general debate on the bill had expired.  
The Clerk will read.  
The Clerk read as follows:

H.R. 2218

As it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 7 (g) of the Endangered Species Act of 1973 (16 U.S.C. 1536 (g)) is amended to read as follows: "There are authorized to be appropriated to the Secretary to assist review boards and the Committee in carrying out their functions under subsec-

tions (e), (f), (g), and (h) of this section not to exceed \$600,000 for each of fiscal years 1979, 1980, 1981, and 1982."

Sec. 2. Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

##### "AUTHORIZATION OF APPROPRIATIONS

"Sec. 15. Except as authorized in sections 6 and 7 of this Act, there are authorized to be appropriated—

"(1) not to exceed \$3,000,000 for fiscal year 1979, and not to exceed \$25,000,000 for each fiscal year 1980, 1981, and 1982, to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and

"(2) not to exceed \$2,500,000 for fiscal year 1979, and not to exceed \$3,000,000 for each of fiscal years 1980, 1981, and 1982, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act."

Sec. 3. Subsection (f) of section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539 (f)) is amended—

(1) in paragraph (4), by inserting "unless such exemption is renewed under paragraph (8)" after "certificate" in subparagraph (C); and

(2) by adding at the end thereof the following new paragraphs:

"(3) (A) Any person to whom a certificate of exemption has been issued under paragraph (4) of this subsection may apply to the Secretary for a renewal of such exemption for a period not to exceed three years beginning on the expiration date of such certificate. Such application shall be made in the same manner as the application for exemption was made under paragraph (3), but without regard to subparagraph (A) of such paragraph.

"(B) If the Secretary approves any application for renewal of an exemption under this paragraph, he shall issue to the applicant a certificate of renewal of such exemption which shall provide that all terms, conditions, prohibitions, and other regulations made applicable by the original certificate shall remain in effect during the period of the renewal.

"(C) No exemption or renewal of such exemption made under this subsection shall have force and effect after the expiration date of the certificate of renewal of such exemption issued under this paragraph."

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. In lieu of the amendment recommended by the Committee on Merchant Marine and Fisheries now printed in the bill, it shall be in order to consider an amendment printed in the Congressional Record of September 20, 1979, by Representative Brearix.  
The Clerk will report the amendment.

The Clerk read the amendment made in order under the rule, as follows:

Page 3, after line 2 insert the following:

Sec. 3. Section 3(11) of the Endangered Species Act of 1973 (16 U.S.C. 1532 (11)) is amended by striking out "(A)" and all that follows thereafter and inserting in lieu thereof "violate section 7(a)(2)".

Sec. 4. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended—

(1) by amending subsection (f) (2) (B) (1) to read as follows:

"(1) not less than 60 days before the effective date of the regulation published—

"(I) the text of the proposed regulation in the Federal Register, and notice of the regulation (including a summary of the text) in a newspaper of general circulation within or adjacent to such habitat;"

## (2) by amending subsection (f) (2) (C) (H) —

(A) by striking out "subsection (b) (A), (B), and (C)" and inserting in lieu thereof "subsection (b) (1) (A), (B), and (C)";

(B) by striking out "120-day period" each place it appears therein and inserting in lieu thereof "225-day period"; and

(C) by inserting at the end thereof the following new sentence: "If at any time after issuing an emergency regulation the Secretary determines, on the basis of the best scientific and commercial data available to him, that substantial evidence does not exist to warrant such regulation, he shall withdraw it"; and

## (3) by adding at the end thereof the following new subsection:

(H) GRANTING AND FULFILLING.—The Secretary shall develop and implement guidelines and procedures to ensure that the purposes of this section are achieved efficiently and effectively. Such guidelines and procedures shall include, but are not limited to—

(1) procedures for recording the receipt and the disposition of petitions submitted under subsection (c) (2) of this section;

(2) criteria for making the findings required under such subsection with respect to petitions;

(3) a ranking system to ensure that species facing a high degree of threat receive priority review for listing; and

(4) a system for developing and implementing, on a priority basis, recovery plans under subsection (g) of this section."

Sec. 5. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is further amended—

## (1) by amending subsection (a) —

(A) by striking out "(a) CONSULTATION—" and inserting in lieu thereof "(a) FEDERAL AGENCY ACTIONS AND CONSULTATIONS.—(1)";

(B) by striking out the third sentence thereof; and

(C) by adding at the end thereof the following:

"(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an 'agency action') is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

"(3) For the purposes of paragraph (2) the term 'endangered species and threatened species' includes every species of fish or wildlife or plant that is listed under section 4; except that paragraph (2) shall cease to apply for purposes of an agency action to any species so proposed for listing unless, within 90 days after consultation regarding the agency action is concluded, the Secretary publishes in the Federal Register a final regulation listing such species";

(2) by amending each of subsections (b), (c), (d), (e) (2), (f), (g) (1) and (5), (h) (1), and (m) by striking out "subsection (a)" wherever it appears therein and inserting in lieu thereof "subsection (a) (2)";

(3) by further amending subsection (c) —

(A) by inserting "(1)" immediately after "BIOLOGICAL ASSESSMENT"; and

(B) by adding at the end thereof the following new paragraph:

(g) of this section for that action may conduct a biological assessment to identify any endangered species or threatened species which is likely to be affected by such action. Any such biological assessment must, however, be conducted in consultation with the Secretary and under the supervision of the appropriate Federal agency";

(4) by further amending subsection (g) (1) by striking out "may jeopardize" and all that follows thereafter in the first sentence thereof and inserting in lieu thereof "would violate subsection (a) (2)";

(5) by amending subsection (g) (2) (A) by striking out "process" and inserting in lieu thereof "process"; or, in the case of an agency action involving a permit or license applicant, not later than 90 days after the date on which the Federal agency concerned takes final agency action, for purposes of chapter 7 of title 5, United States Code, with respect to the issuance of the permit or license."

(6) by amending subsection (g) (3) by redesignating subparagraph (B) as subparagraph (C), and by inserting immediately after subparagraph (A) the following new subparagraph:

"(B) If more than one application for exemption is filed for the same agency action, the same review board shall be convened for each application and shall consider each such application in the manner set forth in paragraph (5).";

(7) by amending subsection (g) (5) —

(A) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(B) by striking out "such exemption applicant" in clause (B) (as so redesignated) and inserting in lieu thereof "the Federal agency or exemption applicant, as the case may be"; and

(C) by redesignating subclauses (A), (B), and (C) as subclauses (1), (H), and (I), respectively; and

(8) by amending subsection (h) —

(A) by amending paragraph (2) (A) to read as follows:

"(2) (A) Except as provided in subparagraph (B), an exemption for an agency action granted under paragraph (1) shall constitute, but only if a biological assessment has been conducted under subsection (c) with respect to such agency action, a permanent exemption with respect to all endangered or threatened species for the purposes of completing such agency action, regardless whether the species was identified in the biological assessment"; and

(B) by amending the first sentence of paragraph (2) (B) to read as follows: "An exemption shall not be permanent under subparagraph (A) if the Secretary finds, on the basis of the best scientific and commercial data available to him, that the exemption will result in the extinction of a species that was not the subject of the consultation under subsection (a) (2) relating to the agency action concerned and was not identified in any biological assessment that was prepared under subsection (c) before, or in conjunction with, the Committee consideration relating to the exemption."

Sec. 6. The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is further amended—

(1) by striking out subsection (e) of section 8;

(2) by adding immediately after section 8 the following new section:

"CONVENTION IMPLEMENTATION"

"Sec. 8A. (a) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—The Secretary of the Interior (hereinafter in this section referred to as the 'Secretary') is designated as the Management Authority and the Scientific Authority for purposes of the Convention and the respective functions of each such Authority shall be carried out through the United States Fish and Wildlife Service.

"(b) MANAGEMENT AUTHORITY FUNCTIONS.—For purposes of the Convention, the Management Authority shall carry out, but is not limited to carrying out, the following functions:

(1) Issue permits and certificates as required by the Convention.

(2) Apply to each permit or certificate that authorizes the importation, exportation, or introduction from the sea of a specimen of any species included in Appendix I of the Convention appropriate conditions and restrictions so that—

(A) The importation will be for purposes that are not detrimental to the survival of the species of which the specimen is a member;

(B) The exportation or introduction from the sea will not be detrimental to the survival of such species; and

(C) In the case of importation or introduction from the sea, the specimen will not be used primarily for commercial purposes.

(3) Apply to each permit or certificate that authorizes the exportation or introduction from the sea of a specimen of any species included in Appendix II of the Convention appropriate conditions and restrictions so that trade in other species listed in either—

(A) Appendix I of the Convention; or

(B) Appendix II of the Convention pursuant to paragraphs 2(a) of Article II thereof;

will be brought under effective control.

(4) Apply to each permit or certificate that authorizes the exportation or introduction from the sea of a specimen of any species included in Appendix II of the Convention pursuant to paragraph 2(a) of Article II thereof appropriate

conditions and restrictions so that the exportation or introduction from the sea will not be detrimental to the survival of the species of which the specimen is a member.

"(c) SCIENTIFIC AUTHORITY FUNCTIONS.—For purposes of the Convention, the Scientific Authority shall carry out only the following functions:

"(1) Advise the Management Authority—  
 "(A) whether the importation of a specimen of any species included in Appendix I of the Convention will be for purposes that are not detrimental to the survival of the species of which the specimen is a member; and  
 "(B) if such specimen is a living specimen, whether the proposed recipient of the specimen is suitably equipped to house and care for the specimen.  
 "(2) Advise the Management Authority whether the exportation or introduction from the sea of a specimen of any species included in Appendix I or II of the Convention (except species included pursuant to paragraph 2(b) of Article II hereof) will not be detrimental to the survival of the species of which the specimen is a member.

"(3) Recommend to the Management Authority conditions and restrictions appropriate to carry out paragraphs (3) and (4) of subsection (b).

"(4) Monitor export permits referred to in paragraphs (3) and (4) of subsection (b) and the actual exports of specimens made under the authority of such permits and, if the Scientific Authority determines that the exportation of any species included in Appendix II of the Convention should be limited in order to maintain such species at a level well above the level at which the species might become eligible for inclusion in Appendix I, recommend to the Management Authority suitable measures that should be considered in the granting of export permits for specimens of any such species. The Scientific Authority shall have the advice and recommendations required of it under this subsection on the best available scientific and commercial data. Advice given by the Scientific Authority under paragraphs (1) or (2) may not be conditioned upon the acceptance of recommendations made by it under paragraph (3) with respect to the species concerned.

"(d) ADVISORY PANEL.—(1) There is established the Endangered Species Advisory Panel (hereinafter in this subsection referred to as the "Panel").

"(2) The Panel shall be composed of the Director of the United States Fish and Wildlife Service, who shall also serve as the chairman of the Panel, and an even number (but not more than 8) of other members appointed by, and who serve at the pleasure of, the Secretary. No individual is eligible for appointment as a member of the Panel unless that individual is knowledgeable or experienced in the conservation of wild fauna or flora.

"(3) The Panel shall meet at the call of the chairman.

"(4) The Secretary shall provide to the Panel necessary staff and administrative support.

"(5) The members of the Panel, who are not employed by the Federal Government or any State or local government, shall receive compensation at the daily rate for GS-18 of the General Schedule when engaged in the actual performance of duties of the Panel. Each member of the Panel shall be reimbursed for actual expenses incurred in the performance of such duties.

"(6) The Panel shall provide technical advice to the Management Authority and to the Scientific Authority on matters arising in the administration of their respective functions under the Convention.

"(7) The Federal Advisory Committee Act does not apply to the activities of the Panel.

"(8) WITHIN THE PRESERVATION IN WESTERN HEMISPHERE.—The President shall designate those agencies of the Federal Government that shall act on behalf of and represent, the United States in all regards as required by the Convention on Nature Protection and Wilderness Preservation in the Western Hemisphere";

(3) by amending the table of contents by inserting immediately after the section title for section 8 the following:

"Sec. 8A. Convention Implementation."

Sec. 7. Convention Implementation."

1539(f) is amended—

(1) In paragraph (4), by inserting "unless such exemption is renewed under paragraph (8)" after "certificate" in subparagraph (C); and

(2) by adding at the end thereof the following new paragraphs:

"(8)(A) Any person to whom a certificate of exemption has been issued under paragraph (4) of this subsection may apply to the Secretary for a renewal of

such exemption for a period not to exceed three years beginning on the expiration date of such certificate. Such application shall be made in the same manner as the application for exemption was made under paragraph (3), but without regard to subparagraph (A) of such paragraph.

"(B) If the Secretary approves any application for renewal of an exemption under this paragraph, he shall issue to the applicant a certificate of renewal of such exemption which shall provide that all terms, conditions, prohibitions, and other regulations made applicable by the original certificate shall remain in effect during the period of the renewal.

"(C) No exemption or renewal of such exemption made under this subsection shall have force and effect after the expiration date of the certificate of renewal of such exemption issued under this paragraph."

Mr. BRAUX (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

AMENDMENT OFFERED BY MR. BRAUX TO THE AMENDMENT MADE IN ORDER

UNDER THE RULE

Mr. BRAUX, Mr. Chairman, I offer an amendment to my amendment made in order under the rule.

The Clerk read as follows:

Amendment offered by Mr. Braux to the amendment made in order under the rule: Page 7, strike out line 12 and all that follows down through and including line 24 on page 11, and inserting the following:

"CONVENTION IMPLEMENTATION

"SEC. 8A. (6) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—The Secretary of the Interior (hereinafter in this section referred to as the "Secretary") is designated as the Management Authority and the Scientific Authority for purposes of the Convention and the respective functions of each such Authority shall be carried out through the United States Fish and Wildlife Service.

"(b) MANAGEMENT AUTHORITY FUNCTIONS.—The Secretary is authorized and directed to do all things necessary and appropriate to carry out the functions of the Management Authority under the Convention.

"(c) SCIENTIFIC AUTHORITY FUNCTIONS.—The Secretary is authorized and directed to do all things necessary and appropriate to carry out the functions of the Scientific Authority under the Convention.

"(d) ENDANGERED SPECIES SCIENTIFIC AUTHORITY COMMISSION.—(1) There is hereby established within the U.S. Fish and Wildlife Service the Endangered Species Scientific Authority Commission (hereinafter in this section referred to as the "Commission").

"(2) The Commission shall be composed of scientifically qualified agency representatives. Each of the following shall designate one such representative from his agency:

"(A) The Secretary of the Interior, whose representative shall be the Chairman.

"(B) The Secretary of Agriculture.

"(C) The Secretary of Commerce.

"(D) The Secretary of Health, Education, and Welfare.

"(E) The Director of the National Science Foundation.

"(F) The Chairman of the Council on Environmental Quality.

"(G) The Secretary of the Smithsonian Institution is invited to designate a representative.

"(3) The Commission shall make recommendations to the Director of the U.S. Fish and Wildlife Service on all matters pertaining to the responsibilities of the Scientific Authority under the terms of the Convention.

"(4) In the discharge of its responsibilities, the Commission shall, to the extent practicable, ascertain the views of, and utilize the expertise of, the govern-

mental and non-governmental scientific communities, State agencies responsible for the conservation of wild fauna or flora, humane groups, zoological and botanical institutions, recreational and commercial interests, the conservation community and others as appropriate.

"(5) The Secretary shall designate an Executive Secretary for the Commission, and shall provide the necessary staff and administrative support for the Commission.

Mr. BRAVUX (during the reading): Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BRAVUX. Mr. Chairman, the 1978 amendments to the Endangered Species Act were passed by the House on the second to last day of the session. The conference report was adopted on the last day of the session. Obviously, very little time was available to insure absolute technical consistency throughout all of the new provisions. This year, in our oversight hearings, the committee received a number of suggestions for changes in various portions of the 1978 amendments. Some of these changes were suggested by the administration, which has tested the new exemption process in two separate instances. Others were suggested by the General Accounting Office which has just completed an extensive study of the endangered species program.

This amendment incorporates a number of these suggestions and adds some others that reflect information developed during the oversight hearings. We believe that all of these changes will measurably improve the administration of the act and the exemption process created last year.

#### SECTION 3

The first portion of the amendment (section 3) makes a technical amendment to the definition of "irresolvable conflict" in the act. This amendment is necessary to make several provisions of the act relating to the exemption process consistent. Under the 1978 amendments the review board must determine whether there is an irresolvable conflict before proceeding to consider the merits of an exemption application. The act currently defines this term as an action that "would jeopardize" the continued existence of an endangered species. Other portions of last year's amendments, however, refer to actions that may or are likely to jeopardize a species. In order to make these provisions consistent these various sections are keyed to the standard described in section 7 of the act.

#### SECTION 4

Section 4 of the amendment amends the notice provisions of the 1978 amendment to allow the Secretary to publish a summary of proposed critical habitat proposals in local newspapers rather than the complete text.

This section also amends the emergency regulation provisions of the act to allow emergency listings of species to remain in effect for 225 days. The statute currently limits the time for emergency listings to 120 days. The extension of time is necessary because of the procedural requirements, including the preparation of an economic impact statement, added to the act last year.

Section 4 of the amendment also requires the Secretary to develop guidelines and procedures for disposing of petitions to list and delist species, and for ranking listing and recovery proposals. These amendments were originally suggested by colleague Robin Beard. The amendments are taken directly from the findings of the General Accounting Office. The GAO found that the endangered species office failed to develop and implement systems for recording petitions and ranking the priority of listing and recovery proposals. This amendment will insure that the deficiency cited by the GAO is corrected.

#### SECTION 5

The next section of the amendment amends section 7 of the act to require Federal agencies to insure that their actions are "not likely" to jeopardize the continued existence of endangered or threatened species or adversely modify or destroy the critical habitat of such species. The act currently requires Federal agencies to insure that any action does not jeopardize a listed species.

The language of the amendment reflects the commonsense interpretation of the requirements of section 7 by the wildlife agencies of the Federal Government in most of the issued biological opinions. These agencies recognize that in some instances the absence of complete data on a species may make it impossible to know with complete certainty the potential impact of an agency action on a listed species. Thus, the wildlife agencies originally proposed that their biological opinions would simply indicate whether an agency action was likely or not likely to jeopardize a listed species.

The amendment to section 7(a), which would require all Federal agencies to insure that their actions are not likely to jeopardize endangered species, simply brings the language of the statute into conformity with existing regulations, agency practice, and judicial decisions, such as the opinion in National Wildlife Federation against Coleman.

The joint regulations published by the Fish and Wildlife Service and the National Marine Fisheries Service at part 402 of title 50 of the Code of Federal Regulations, require those agencies to render biological opinions which advise whether or not proposed agency actions are likely to jeopardize an endangered species. Courts have given substantial weight to these biological opinions as evidence of an agency's compliance with section 7(a). My amendment would not alter this state of the law. It is not intended to lessen in any way an agency's obligation under section 7(a) to avoid taking an action where it cannot insure, after consultation with the wildlife agencies, that the action is not likely to result in jeopardy to a listed species or in the adverse modification of designated critical habitat.

Although the wildlife agencies adopted this commonsense interpretation of section 7, I am concerned that the Fish and Wildlife Service and the National Marine Fisheries Service may be tempted to issue negative biological opinions whenever not enough information is known about a particular species. This amendment will require the wildlife agencies to frame their biological opinion on the evidence that is available and will require them to evaluate the likelihood of jeopardy as a result of the agency action. In some cases, it will be difficult, if not impossible, for a Federal agency to make certain that its action

does not jeopardize a listed species or adversely modify its critical habitat. No matter how many precautions are taken, there may be a small chance that the agencies' action will end up jeopardizing the species. No agency can or should be expected to give a 100-percent guarantee of no adverse impact.

I am concerned that the language of the existing statute could be interpreted to require this guarantee. The language I have proposed would continue to give the benefit of the doubt to the species, and it would continue to place the burden on the action agency to demonstrate that its action will not violate the standard of the act. The language, however, allows Federal agencies to consider the probability or likelihood of jeopardizing a listed species in deciding whether to go ahead with a particular action.

In an imperfect world I believe that the best that we can ask of Federal agencies is that they be sensitive to the potential adverse impacts of their actions, that they give considerable weight to the biological opinions of the wildlife agencies, and that they make sure that their actions are not likely to jeopardize a listed species. To require more would not only be asking the impossible, it would lead to dozens of unnecessary exemption applications.

Unfortunately, there will be many instances when not enough information is available on a particular species to evaluate the potential impact of an action with certainty. This language is not intended to absolve Federal agencies from the responsibility of cooperating with the wildlife agencies in developing needed information. In many cases the most prudent and responsible action a Federal agency can take is to attempt to gather more information about a species so that unnecessary conflicts can be avoided.

Section 5 of the amendment also requires consultation on proposed species. This amendment was suggested by the General Accounting Office. It is intended to get the development agency and the wildlife agency talking about endangered species problems at the earliest opportunity—before the problem becomes unresolvable.

This section also clarifies the permanent exemption provision of the 1978 amendments to provide that exemptions granted by the Endangered Species Committee will apply to all endangered and threatened species that are identified in the biological assessment or are the subject of the consultation process.

#### SECTION 6

Section 6 of my amendment restores a measure of order and accountability to U.S. trade policy in endangered and threatened wildlife. It is an entirely separate issue from the controversies we have encountered in the administration of the act. The amendment is necessary because the system for carrying out our obligations under the Convention on International Trade in Endangered Flora and Fauna has completely broken down and needs to be restored to working order.

Under the Convention the United States designates two agencies—a Management Authority and a Scientific Authority, to administer trade regulations regarding species whose survival is threatened by commercial exploitation. The U.S. Management Authority resides in the Interior Department and the Scientific Authority, composed of seven natural scientists from various executive departments, is

uniquely autonomous. This arrangement was created by an Executive order authorized by section 8 of the Endangered Species Act.

A full day of hearings held by the Subcommittee on Fisheries, and Wildlife Conservation and the Environment uncovered some rather startling facts about the Scientific Authority which I believe Members interested in accountability in Government will be concerned about. The ESSA, as the Scientific Authority is referred to, publishes regulations, interprets the Convention, sets its own operating procedures and limits trade in listed species at its discretion with no official policy guidance from Congress or the executive branch. It is an unaccountable, extra governmental organization capable of overriding official Interior Department decisions and disrupting wildlife management and trade policy at its discretion. The Scientific Authority is not only unaccountable to any single governmental official, its members have decided that they are not even required to represent the views of the agency that appointed them. To my knowledge the ESSA is the only agency of the Federal Government where unelected and unappointed Federal civil servants are allowed to promulgate rules and regulations without review by a higher authority. It creates enormous confusion and unpredictability which has resulted, on at least one occasion, in the publication of regulations by the ESSA completely negating the U.S. Fish and Wildlife Service regulations regarding trade in the same species. I find the spectacle of two separate agencies canceling out each other's regulations unacceptable and more than a bit ridiculous.

The amendment which I offer today simply makes the ESSA accountable to the Secretary of the Interior and gives it the same status as the management authority under the Convention. It leaves the ESSA intact with full authority to administer its obligations under the Convention, but makes it responsible to the Secretary like any other unit of the Department of the Interior.

My amendment fills a vacuum created by a complete lack of congressional direction in this area. In fact, we discovered that the Convention received the barest attention imaginable when it was ratified by the Senate. The Senate ratified the Convention without debate by a voice vote and without a hearing. The Library of Congress, when asked to research the question of the origin and limits of the ESSA's authority, reported that no information exists other than the record of the hearing held by my subcommittee on July 16 of this year.

Now some might argue that my amendment somehow violates the spirit of the Convention. Nothing could be more false. The amendment explicitly gives the Secretary of the Interior all of the authority granted the Scientific Authority by the Endangered Species Convention.

Nothing in the Convention requires the Scientific Authority to be a completely independent, multihanded agency, as is now the case. All the Convention requires is that the signatory nations designate a Management Authority and a Scientific Authority. The Convention leaves it completely up to each individual nation to decide how that is to be done. In Canada, for example, many of the Convention responsibilities have been delegated to the individual provinces. This would be the same as delegating our responsibilities to the individual States. I do

not propose that we do this, although I should point out that State fish and wildlife conservation agencies are the ones primarily responsible at the working level for making the Endangered Species Convention work.

My amendment is wholeheartedly supported and endorsed by the Association of Fish and Wildlife Agencies which represents all of the State departments of fish and game. They see this amendment as a necessary change which will return some order to the U.S. management of this program without weakening the Convention on Endangered Species.

The amendment before the House, which resulted from our hearings, creates a reasonable system of carrying out U.S. obligations under the Convention. It affirms an important principle of good government, namely—that any agency which publishes regulations, interprets the law and creates policy should be accountable to the executive branch and subject to the expressed will of Congress. The ESSA, without my amendment today, is accountable only to itself.

Mr. McCroskey. In making the legislative history on this amendment and the intention of the amendment, the only question that I would ask the gentleman in this: When the Convention was adopted, it was clearly the intention of the parties to the Convention and their intent that the Scientific Authority make independent scientific judgments.

If I understand the gentleman's amendment correctly and what it replaces, there is no intention of this amendment to cause the scientific judgment of the Scientific Authority or the Secretary acting in that capacity to be other than independent; am I correct?

Mr. BRAVUX. I would say to the gentleman in response to his question that I see nothing in the International Convention on Endangered Species that requires the creation of a completely separate independent authority. They are required to make scientific biological decisions, and they should have the freedom to make those decisions within the structure of their organization. This amendment allows them to have the same members appointed that they have under the existing authority, allows them to take every action that they are guaranteed authority to take under the CITES Convention. My amendment simply places that organization within the Department of the Interior so that they will fit within the boundaries and confines of the Department of the Interior as the Management Authority is operating today.

Mr. McCroskey. All right. I have no problem, if I can finish this question. Clearly the Management Authority that the Secretary will exercise is a policymaking decision that Government policy would govern. In his capacity as the Scientific Authority, I take it he is free to make scientific judgments as opposed to policy judgments that may be different from policy judgments.

Mr. BRAVUX. I would say to the gentleman, the gentleman I think is basically correct, with the explanation that it is my intent in offering this amendment to say that they are the ones who are initially responsible for looking at the scientific and biological data and making the decision based independently on their finding as a Scientific Authority. That Scientific Authority must operate within the Department of the Interior under the Fish and Wildlife Service. They are a part of that under this amendment, and they would be under the same

restrictions and obligations that any other subagencies of the Fish and Wildlife Services would be.

Mr. McCroskey. Let me draw an example if I can, because we have a similar situation with respect to the International Whaling Commission where we have been successful because our scientists who reached opinions as to whether whale stocks were declining, diminishing, or increasing were making independent scientific judgments. That is what I mean by scientific judgment, that this is a scientific judgment independent of political persuasion that the Scientific Authority would be making. Am I correct?

Mr. BRAVUX. Their ability to make an independent biological scientific decision is not affected.

Mr. McCroskey. It is independent of policy decisions? It is a scientific judgment made on a scientific basis?

Mr. BRAVUX. It is based on science and the biology of the species they are asked to look for. I do not want to give the gentleman any incorrect impression. They are part of the Fish and Wildlife Service. They are part of the Department of the Interior, and those agencies and officials look at their actions, and if they see that they are outside of or exceeding their authority, or are in violation of their rules in the Department of the Interior, then they point out that that is not the way they should be operating. Then they would have that authority, as they have with Management Authority.

Mr. McCroskey. I think I understand, but I just want to say that the Secretary of the Interior had a dual responsibility on rattlesnakes, one of which was a scientific opinion that they were diminishing, and one was a political opinion as to whether they ought to be removed from the menu of a local restaurant. I just want to make clear that the legislative history of this act makes a distinction between the scientific opinions of scientists, which are independent and must be under the Convention, and the policy decisions that, of course, should be accountable under the Management Authority.

Mr. BRAVUX. I think the gentleman and I are correct in our understanding that the intent is not to delineate in any way or take in any way the responsibility that is guaranteed to them under the CITES Convention.

Mr. McCroskey. That is, the independence of scientific judgment? Mr. BRAVUX. That is correct, but it is not the intent, and I think the amendment very clearly does not allow them to do anything that the Convention does not allow them to do.

Mr. McCroskey. I thank the gentleman.

Mr. BRAVUX. I would merely conclude, Mr. Chairman, that my amendment is wholeheartedly supported and endorsed by the Association of Fish and Wildlife Agencies throughout the United States. The bill is a compromise package. It is not unanimous with everybody's support. Many groups are not completely satisfied with it, but I think many groups have come to the correct conclusion, as many Members of Congress have, that the only way we are going to make this process work is to work together and work in a spirit of compromise in order to allow the Endangered Species Act to survive.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment to the amendment made in order under the rule.

The amendment to the amendment made in order under the rule was agreed to.

Mr. FORSYTHE. Mr. Chairman, I take this time to support the Breaux amendment and the modification just agreed to.

Mr. Chairman, the Endangered Species Act of 1973 represents the most far-reaching wildlife conservation statute ever enacted. It established a clear national policy to ensure the survival of those species of fish and wildlife which have become endangered because of natural causes or because of man's activities. To effectuate this policy, the act prohibits any Federal agency from taking any action which would adversely affect an endangered species or its critical habitat.

The passage of the Endangered Species Act preceded the oil embargo, rampant inflation, and the increasing shortage of natural resources in this country. In the years following 1973, there was a growing awareness that the needs of this Nation's fish and wildlife resources would have to be balanced against society's needs for nonliving resources. The absolute prohibitions of the Endangered Species Act began to be called into question. These questions led to the passage, in 1978, of a series of amendments establishing a special Endangered Species Committee which was authorized to permit the completion of various projects when the benefits of the project outweighed the conservation needs of the endangered species involved.

I believe these amendments were a major step forward in introducing a necessary balance into the Endangered Species Act. In fact, it is my firm belief that without the passage of these amendments, the act would have been lost. The Endangered Species Act is an important statement of national policy, and I believe it must be preserved.

Since the passage of the 1978 amendments, we have discovered several problems associated with their implementation. Most of the amendments being offered by the gentleman from Louisiana seek to resolve these problems. For example, when the conferees met to resolve the differences between the House and Senate bills during the last Congress, it was our intent that exemptions granted by the Endangered Species Committee should be permanent. The legislative history, however, is less than clear. To clarify congressional intent, one of the gentleman's amendments provides that if an exemption has been granted, that exemption shall be permanent with respect to all listed species. But the gentleman's amendment contains a safeguard. If the species was not identified in a biological assessment and if the Secretary finds that the completion of the project will cause the extinction of the species, the Endangered Species Committee may reconsider whether to grant an exemption for the project.

The 1978 amendments provide that either a Federal agency or a permit or license applicant can apply to the Endangered Species Committee for a project exemption. Prior to filing for such an exemption, a biological assessment must be completed by the party seeking the project exemption. However, the act only authorizes a Federal agency to do an assessment and, therefore, a permit or license applicant is effectively blocked from filing for an exemption. The gentleman's amendments remedy this inconsistency in the act by specifically providing that permit and license applicants may conduct biological assessments. Another amendment adopts a recommendation of the General Accounting Office that project sponsors consult regarding the impact

of the project on species which are proposed for listing as endangered. Currently, the consultation requirement extends only to species which have actually been listed. The purpose of requiring consultation on proposed species is to minimize potential conflicts with the Endangered Species Act. If, as a result of the consultation, it is determined that the project will have a negative impact on the proposed species, the Secretary of the Interior must list the species within 90 days or withdraw the proposed listing.

The pending amendment also clarifies the requirements which section 7 of the act places on Federal agencies. Under this section, Federal agencies must insure that any action taken by them does not jeopardize the continued existence of any listed species or result in the destruction or adverse modification of that species critical habitat. The operative word is "insure." That is an unrealistic and unachievable standard since it is impossible to "insure" that an action will have no adverse effect. A more reasonable standard would be to require that Federal agencies not take any action which is likely to adversely affect an endangered species or its critical habitat. This is precisely what the pending amendment does. The amendment modifies the existing insure standard by requiring that Federal agencies only insure their actions are not likely to have adverse effects on endangered species or their critical habitats.

There are several other sections of the gentleman's amendment which clarify the 1978 amendments and I believe these represent an improvement over the 1978 efforts.

Finally, the amendment now before us contains language implementing the International Convention on Trade in Endangered Species. This section of the amendment designates the Secretary of the Interior as the Scientific Authority under the Convention and delineates the functions of both the Scientific Authority and the Management Authority.

Mr. Chairman, the Endangered Species Act amendments which were passed in the last Congress introduced a necessary balance into the act. The amendments under discussion today resolve many of the technical deficiencies of the 1978 amendments and clarify the policy of those amendments by insuring that the need to conserve this Nation's fish and wildlife is balanced against this Nation's need for nonliving natural resources.

Mr. EVANS of Delaware. Mr. Chairman, I strongly support the authorization of appropriations to carry out the purposes of the Endangered Species Act of 1973 for another 3 years. America's beleaguered wildlife, with its evershrinking habitats, needs strong protection if it is to thrive—much less survive—in the coming years.

In the 95th Congress, the Merchant Marine and Fisheries Committee, of which I am a member, and others considered at length the Endangered Species Act and the various criticisms which had been leveled since passage of the original act. In 1978, the House approved amendments to the 1973 act which responded to those criticisms by providing some flexibility and a means for balancing environmental and economic interests. I think the act we now have is a fair and good law, and we should keep it intact.

Mr. Chairman, I note that today we have before us not only an authorization bill, but various amendments, including one offered by

the chairman of the Subcommittee on Fisheries, Wildlife Conservation and the Environment. As a member of that subcommittee, I must say that I would have very much preferred having had a chance to review and consider these amendments in subcommittee and full committee, since some were substantive in nature and not purely technical. The fact that these substantive amendments were not considered in committee, where such matters are best considered, is water over the dam, and I will not mention it further here.

To focus now on the amendment offered by the gentleman from Louisiana (Mr. Breaux) I have been particularly concerned with section 6 regarding the implementation of the Convention on International Trade in Endangered Species (CITES). The gentleman's amendment as printed in the Record on September 20 transferred the Endangered Species Scientific Authority to the U.S. Fish and Wildlife Service and restricted their functions and responsibilities. I understand that the effect of that original amendment was to place the United States in violation of both the letter and spirit of CITES. The implementation of an international treaty should not be taken lightly, especially one which the United States initiated and has taken the lead in implementing. For this reason I would have opposed the gentleman's amendment in its original form.

However, I appreciate the fact that Mr. Breaux in his pending amendment, has taken steps to address some of the concerns that have been expressed. I think Mr. Breaux's amendment to his amendment is a move in the right direction and I will not oppose it's adoption.

In conclusion, I must note for the record that by transferring the Scientific Authority to the U.S. Fish and Wildlife Service one can raise serious question as to the "independence" of that Authorities' subsequent determinations. While this action apparently does not violate the letter of the CITES, it does seem inconsistent with the spirit of the treaty. It is my hope that to the extent they are able, the Scientific Authority continues to make its judgment in an independent fashion.

AMENDMENT OFFERED BY MR. BOWEN TO THE AMENDMENT MADE IN ORDER UNDER THE RULE, AS AMENDED

Mr. Bowen. Mr. Chairman, I offer an amendment to the amendment made in order under the rule, as amended.

The Clerk read as follows:

Amendment offered by Mr. Bowen to the amendment made in order under the rule, as amended: Page 1, between lines 8 and 9, insert the following:

(1) by amending subsection (b) (1) by striking out "him" and inserting in lieu thereof the following: "him after conducting a review of the status of the species";

Page 1, line 9, strike out "(1)" and insert "(2)".

Page 1, line 12, insert "shall" before "publish";

Page 1, line 13, strike out "text" and insert "general notice and the complete text";

Page 1, line 17, strike out "text" and insert in lieu thereof "text, and a map of the proposed critical habitat";

Page 1, between lines 19 and 20, insert the following:

(3) by amending subsection (1) (2) (B) (iv) (11) by striking out "If requested," and inserting in lieu thereof "If requested within 15 days after the date on which the public meeting is conducted,"

Page 1, strike out line 20 and all that follows down through line 12 on page 2 and insert the following:

(4) by amending subsection (1) (2) (C) (ii) by inserting at the end thereof the following new sentence: "If at any time after issuing an emergency regulation the Secretary determines, on the basis of the best scientific and commercial data available to him, that substantial evidence does not exist to warrant such regulation, he shall withdraw it."; and

Page 2, line 13, strike out "(3)" and insert "(6)".

Page 2, line 15, strike out "Guidelines act" and insert "Agency".

Page 2, line 16, strike out "develop and implement guidelines and" and insert "by regulation establish agency";

Page 2, line 18, strike out "guidelines and";

Page 4, strike out lines 3 through 11, inclusive, and insert in lieu thereof the following:

"(3) Each Federal agency shall confer with the Secretary on any agency action which may jeopardize the continued existence of any species proposed to be listed under section 4 or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. This paragraph does not require a limitation on the commitment of resources as described in subsection (d)."

Page 5, line 1, strike out "consultation" and insert "cooperation".

Page 6, strike out line 20 and all that follows down through line 6 on page 7 and insert in lieu thereof the following:

(B) by amending paragraph (2) (B) to read as follows:

"(2) (B) An exemption shall be permanent under subparagraph (A) unless—  
 "(1) the Secretary finds, based on the best scientific and commercial data available, that such exemption would result in the extinction of a species that was not the subject of consultation or was not identified in any biological assessment conducted under subsection (c), and  
 "(H) the Committee determines within 60 days that the exemption should not be permanent."

Mr. Bowen (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The Chairman. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. Bowen. Mr. Chairman, I would like to congratulate the gentleman from Louisiana (Mr. Breaux) for the outstanding job he has done in preparing the amendments to the legislation which we developed last year. These are amendments which I think make significant improvements in our legislation based upon the year's experience we have had in administering that act. I have met at length with the gentleman from Louisiana.

We have discussed some of the aspects of this amendment and ways that it might be clarified in certain instances. I have at the same time discussed the amendments I am offering with the environmental organizations represented here in the capital, and I have discussed them with the Fish and Wildlife Service. They found no objection to them, and I think my amendments will preserve the spirit and purpose of the Endangered Species Act and the Breaux amendment.

These amendments, Mr. Chairman, involve several areas and in most cases simply make small changes in language. In one instance it is a matter of changing the words "consult and consultation" to "confer and cooperate" simply to clarify the intent of the act.

In another instance, we have a recommendation from the GAO which indicates that the Fish and Wildlife Service should proceed with a status review before proposing an actual listing itself. In many cases they have failed to do this. Although they have stated in testimony before our committee that they would do this, they have, in fact, not done it in several instances.

In one case, for example, they proposed the listing of an endangered species, the green pitcher plant in Alabama, and upon proposing it they discovered that 2 weeks earlier they had signed a contract with a botany professor at Mississippi State University in my district to do a year's study to determine whether or not they should propose it. I think that this requirement for status review will make a constructive change in the legislation.

In another instance, we intended in our legislation last year that there be both public meetings and public hearings before a listing. Some of the administrative regulations issued by the Fish and Wildlife Service have confused that goal and have made it impossible to have clearly established the two separate processes and, in fact, roll them into one. This amendment would clarify language of the Endangered Species Act.

There are other technical changes, Mr. Chairman, which I will not go into, but I know of no opposition to these amendments.

Mr. BREAVUX. Mr. Chairman, would the gentleman yield?

Mr. BOWEN. I will be happy to yield to the gentleman from Louisiana.

Mr. BREAVUX. I would like to interrupt the gentleman's presentation on the amendments to say the amendments are basically very keyed into the amendments I have offered. The gentleman from Mississippi is to be commended for his presentation. The gentleman was the floor manager, I think, on representing the subcommittee in the last Congress on the 1978 amendments to the Endangered Species Act and the gentleman made a remarkable contribution to the statute.

Mr. Chairman, while I do not want to give anyone the impression there is unanimous consent in Washington or anywhere else on supporting my amendment or the amendments of the gentleman from Mississippi, I do want to commend the gentleman and say to the members of this committee that the amendments are acceptable. I think they are improvements that the amendments we are presenting here today. We would ask that they be supported and adopted.

Mr. FORSTYNE. Mr. Chairman, will the gentleman yield?

Mr. BOWEN. I yield to the gentleman from New Jersey.

Mr. FORSTYNE. Mr. Chairman, we have reviewed these amendments, and as the chairman of the subcommittee has pointed out, we believe that they are all very good amendments and should be approved.

Mr. BOWEN. Mr. Chairman, I thank the gentleman from New Jersey. The gentleman certainly also has made an outstanding contribution to the perfection of this legislation.

Mr. JOHN L. BURTON. Mr. Chairman, I would ask my distinguished friend, from Louisiana, Mississippi, New York, Delaware, New Jersey, or Alaska, what are they doing to me with these amendments, anything?

Mr. BREAVUX. Mr. Chairman, if the gentleman will yield, I would say to the gentleman that the gentleman is not on the endangered species list and is not affected in any way by any of the amendments that we are offering here today.

Mr. JOHN L. BURTON. The gentleman knows my affinity for those on the endangered species list.

Mr. BREAVUX. We do not change the affinity of the gentleman for the animals and plants that are on the endangered species list, of which the gentleman from California is not a member.

Mr. JOHN L. BURTON. Mr. Chairman, I yield to the distinguished chairman from the sovereign State of New York.

Mr. MURPHY of New York. Mr. Chairman, I would like to assure my distinguished colleague from California that since the committee visited his district, that none of the plants in which the gentleman has a particular interest are included within this legislation.

Mr. JOHN L. BURTON. They are not in danger, but I am being serious; the gentleman from Louisiana stated that there was no unanimous support for the gentleman's amendment; but by and large, how do the environmentalists feel about it?

Mr. BREAVUX. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I would be happy to yield to the gentleman from Louisiana.

Mr. BREAVUX. Mr. Chairman, I would say that the initial amendments that we proposed were controversial, a great deal more controversial than what we are presenting here today. After a series of meetings with the environmental groups and with the administration, we now have reached the point where we can support these amendments. The administration does support the amendments we are offering today.

While some environmental groups would like phrases changed in some manner, I think by and large we can say that we are moving forward together on this. While they might prefer some different language, I do not think anyone is concerned that any grave damage is being done. The spirit and the integrity of the bill is preserved.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman. There are a few words in the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi (Mr. BOWEN) to the amendment made in order under the rule, as amended.

The amendment to the amendment made in order under the rule, as amended, was agreed to.

The CHAIRMAN. Are there other amendments to the amendment made in order under the rule?

AMENDMENT OFFERED BY MR. FORSTYNE TO THE AMENDMENT MADE IN ORDER UNDER THE RULE, AS AMENDED

Mr. FORSTYNE. Mr. Chairman, I offer an amendment to the amendment made in order under the rule, as amended.

The Clerk read as follows:

Amendment offered by Mr. FORSTYNE to the amendment made in order under the rule, as amended: After the last line of the amendment offered by Mr. BREAVUX, insert the following:

Sec. 8. The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is further amended as follows:

(1) Section 2(a)(5) is amended by striking out "fish and wildlife," and inserting in lieu thereof "fish, wildlife, and plants";

(2) Section 4(1)(2)(C)(ii) is amended—

(A) by striking out "fish or wildlife," and inserting in lieu thereof "fish or wildlife or plants"; and

(B) by striking out "fish and wildlife," and inserting in lieu thereof "fish, wildlife, and plants";

(3) Section 8(b) is amended—

(A) by inserting "and plants" immediately after "fish or wildlife" in paragraph (1); and

(B) by inserting "or plants" immediately after "fish or wildlife" each place it appears in paragraph (3).

(4) Section 15 (as amended by section 2 of this Act) is amended by striking out "Act" at the end of paragraph (2) and inserting in lieu thereof "Act; and"; by adding immediately after such paragraph the following new paragraph: "(3) not to exceed \$1,500,000 for fiscal year 1980, not to exceed \$1,750,000 for fiscal year 1981, and not to exceed \$1,850,000 for fiscal year 1982, to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this Act and the Convention which pertain to the importation or exportation of terrestrial plants."

Mr. FORSTYNE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FORSTYNE. Mr. Chairman, I am offering this amendment in order to give the Department of Agriculture the resources it needs to carry out its responsibilities under the Endangered Species Act. Pursuant to that act and the Convention on International Trade in Endangered Species, the United States has embarked on a program to protect plants which are threatened with extinction.

The Department of Agriculture has been charged with the responsibility for enforcing the provisions of the Endangered Species Act and the International Treaty as they relate to plants. The act makes it unlawful for any person to deliver, receive, sell, or transport in interstate or foreign commerce any plant listed as endangered unless that person has a permit from the Secretary of the Interior. It is the Secretary of Agriculture, however, who enforces these provisions. Unfortunately, the Department's efforts have been rendered almost completely ineffective because of a lack of manpower and funds.

In fiscal year 1978, 6.85 million plants were imported into the United States through 84 ports of entry. Because of a lack of adequate funding and manpower, the Department of Agriculture has inspectors in only 14 ports of entry.

With such an inadequate level of enforcement, there is virtually no deterrent to the illegal import and export of plants. In addition, plants are inadequately inspected for disease or pests which they may be carrying.

In preparing this amendment, members of the committee staff met with acknowledged plant smugglers who detailed the ease with which they can import and export plants. The smugglers said it was so easy because of the almost nonexistent enforcement of the Endangered Species Act and the International Convention. This illegal trade in endangered plants must be stopped because the uncontrolled trade in endangered plants is having serious and adverse effects on this Nation's plant conservation program.

It is important that endangered plants be conserved for future uses. Plants serve man in many ways. Many species are used directly by man as timber, industrial raw materials, components of drugs, or as ornaments. These plants of proven economic value are particularly vulnerable to overexploitation for commercial purposes. Should they be driven to extinction, their valuable properties would be lost.

To adequately monitor the importation of almost 7 million plants and to effectively enforce regulations designed to protect endangered

plants, the Department of Agriculture needs additional funds. My amendment authorizes the appropriation of \$1.5 million in fiscal year 1980 and \$1.75 million in fiscal year 1981 and \$1.85 million in fiscal year 1982.

In addition, my amendment adds language to the congressional findings so that plants are included in the congressional finding that States and other interested parties should be encouraged to develop and maintain conservation programs for endangered species. My amendment also adds the word "plants" to section 8(b) of the act, thereby enabling the Secretary of State to enter into agreements with foreign nations for the conservation of endangered plants. Finally, my amendment gives the Secretary of the Interior authority to take temporary action to conserve plants when there is an emergency posing a significant risk to the species. The Secretary already has such authority for fish and wildlife but lacks the emergency authority to conserve plants.

Mr. Chairman, this amendment has the support of the administration and of the environmental community, it will permit the Department of Agriculture to carry out its responsibilities under the act, and it will help stop the illegal trade in endangered species of plants. For these reasons, I urge its adoption.

Mr. MURPHY of New York. Mr. Chairman, I rise in strong support of the Forstyne amendment. It certainly is a necessary amendment.

Mr. Chairman, this amendment will substantially improve the efforts to control the international illegal trade in endangered species of plants. The amendment is very simple. It authorizes appropriations to the Department of Agriculture to carry out their important responsibilities under the Endangered Species Act. In addition, the amendment authorizes the Secretary to encourage foreign nations to develop conservation programs for endangered plant species.

This amendment closes a very unfortunate omission in the original Endangered Species Act. Under that act, the Department of Agriculture has the responsibility to regulate the importation and exportation of endangered plants. At the working level of the Department this function has been delegated to the Animal and Plant Health Inspection Service. The Service received this authority because they already operate a nationwide system of inspection stations to prevent the introduction of dangerous pests into this country.

The problem is that although the Animal and Plant Health Inspection Service operates inspection stations and is supposed to insure that endangered plants have the appropriate import permits, they have never received funds for this task and as a practical matter are not fulfilling their obligations.

By the Department's own admission, plant inspectors are not adequately inspecting importation of plants for violations of the Endangered Species Act and the International Endangered Species Convention. In fact, in 1977, the Department informed its regional directors that because the Department had not received funds to enforce the Endangered Species Act, no shipment of plants could be detained or refused entry because of a failure to comply with the act or the convention.

The basic problem is that there is a very high level of plant importations into this country. When Agriculture began enforcing the trade

regulations in mid-summer 1978, it seized 200 shipments containing over 20,000 plants within 11 weeks. Department records suggest that the total volume of the trade numbers in the millions. Some former plant dealers have openly admitted to the committee that they often obtained extremely rare plants by smuggling them into the United States right through the Agriculture inspection stations. The existing inspection personnel cannot hope to properly inspect plant importations for violations of the Endangered Species Act. First, the inspectors are largely trained to look for insects on the plants. They are essentially bug men. They are not trained to identify illegally imported endangered plants. Second, the inspection personnel have to carry out their endangered species duties in addition to all of their other duties. The Department has recently written me asking that H.R. 2218 be amended to provide an authorization to permit the Department to seek a moderate increase in their inspection personnel. This amendment conforms to the departmental request.

This amendment will help stem the alarming trade in illegal plants. A number of individual States in this country have passed strong laws to protect their native species, but the State actions will never be truly effective until the Federal Government implements a strong inspection system at the various ports of entry.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. ROSSBYNE) to the amendment made in order under the rule, as amended.

The amendment made in order under the rule, as amended, was agreed to.

The CHAIRMAN. Are there other amendments to the amendment made in order under the rule?

The question is on the amendment made in order under the rule, as amended.

The amendment made in order under the rule, as amended, was agreed to.

The CHAIRMAN. Are there other amendments to the bill?

#### AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 3, after line 2, insert the following new Section 3 and renumber subsequent sections accordingly: "Sec. 3. Section 3(8) of the Endangered Species Act of 1973 is amended by striking the words 'mollusk, crustacean, arthropod or other invertebrate;'"

Mr. YOUNG of Alaska. Mr. Chairman, with the assurance of my good friend, the chairman of the subcommittee, and further, with a full understanding of the hard work and effort he and the gentleman from New Jersey (Mr. Forsythe) have put into this bill, I ask unanimous consent that I may be permitted to withdraw my amendment at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. BOYKKA. Mr. Chairman, the distinguished chairman of the Merchant Marine and Fisheries Subcommittee on Fisheries, Wildlife Con-

servation and the Environment has proposed an amendment to H.R. 2218 which raises some questions about the timing, manner, and potential effect if adopted by the committee. I welcome the spirit of consultation represented by this compromise and intend to vote in favor of the amendment. But I wish to make it clear that I do so reluctantly.

The compromise amendment to the endangered species authorization bill offered by Mr. Breaux is an improvement over the original amendment to be sure, but this amendment places the United States in violation of the spirit of the Convention on International Trade in Endangered Species (CITES) to which the United States is a party. Indeed, the Department of State has commented that Mr. Breaux's compromise would not be "an express violation of CITES."

Let me briefly discuss the reasons for which I believe Mr. Breaux's amendment is not in strict conformity with U.S. international legal obligations under CITES. The convention intends that the Endangered Species Scientific Authority (ESSA), which each country party to the treaty is required to establish, make independent scientific determinations on whether international trade will threaten the existence of an animal or plant species. The purpose and function of ESSA are clear: It is to act as a check and balance with the Management Authority. Although CITES does not specifically require the Scientific Authority to be independent, the Executive order that established ESSA designated it as a semi-independent body. Contrary to the will of the Executive order, Mr. Breaux would have the Secretary of the Interior serve as both the Scientific and Management Authorities, thereby removing the autonomy of ESSA and raising questions as to the independent scientific judgment of ESSA.

Mr. Chairman, the United States has traditionally exercised a strong and positive influence in international activities concerning endangered species. CITES was initially drafted by us, and was negotiated in Washington, D.C., in 1973. We were the first country to ratify the convention in 1975, and were, therefore, a party when the treaty entered into force on July 1, 1975.

In summary, placing the Scientific Authority under the jurisdiction of the Secretary of the Interior could indicate to the 53 other countries now party to the treaty a weakening of our commitment to protect endangered species, and undermine our leadership in international efforts to conserve the world's endangered animals and plants. Moreover, curtailing ESSA's independence could negatively affect any future attempts to improve American implementation of CITES.

I will, therefore, not oppose the amendment offered by Mr. Breaux, but hope that my colleagues will recognize the possible negative international implications of its passage.

The CHAIRMAN. Are there other amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Filippo, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2218) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, pursuant to House Resolution 417, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The Speaker. Under the rule, the previous question is ordered. The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read:

"A bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, and for other purposes."

A motion to reconsider was laid on the table.

#### HOUSE CONSIDERATION AND PASSAGE OF S. 1143, AMENDED (IN LIEU OF H.R. 2218)

Mr. MURPHY of New York. Mr. Speaker, pursuant to the provisions of House Resolution 417, I call up a similar Senate bill (S. 1143) to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

#### MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves to strike out all after the enacting clause of the Senate bill, S. 1143, and to insert in lieu thereof the provisions of the bill, H.R. 2218, as passed, as follows:

That the first sentence of section 7(g) of the Endangered Species Act of 1973 (16 U.S.C. 1536(g)) is amended to read as follows: "There are authorized to be appropriated to the Secretary to assist review boards and the Committee in carrying out their functions under subsections (e), (f), (g), and (h) of this section not to exceed \$600,000 for each of fiscal years 1979, 1980, 1981, and 1982."

Sec. 2. Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

#### "AUTHORIZATION OF APPROPRIATIONS

"Sec. 15. Except as authorized in sections 6 and 7 of this Act, there are authorized to be appropriated—

(1) not to exceed \$23,000,000 for fiscal year 1979, and not to exceed \$25,000,000 for each of fiscal years 1980, 1981, and 1982, to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and

(2) not to exceed \$2,500,000 for fiscal year 1979, and not to exceed \$3,000,000 for each of fiscal years 1980, 1981, and 1982, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act."

Sec. 3. Section 3(11) of the Endangered Species Act of 1973 (16 U.S.C. 1532 (11)) is amended by striking out "(A)" and all that follows thereafter and inserting in lieu thereof "violate section 7(a) (2)."

Sec. 4. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended—

(1) by amending subsection (b) (1) by striking out "him" and inserting in lieu thereof the following: "him after conducting a review of the status of the species";

(2) by amending subsection (f) (2) (B) (1) to read as follows:

"(1) not less than 90 days before the effective date of the regulation, shall publish—

"(1) the general notice and the complete text of the proposed regulation in the Federal Register, and

"(II) if the proposed regulation specifies any critical habitat, general notice of the regulation (including a summary of the text, and a map of the proposed critical habitat) in a newspaper of general circulation within or adjacent to such habitat";

(3) by amending subsection (f) (2) (B) (iv) (II) by striking out "if requested," and inserting in lieu thereof "if requested within 15 days after the date on which the public meeting is conducted";

(4) by amending subsection (f) (2) (C) (ii) by inserting at the end thereof the following new sentence: "If at any time after issuing an emergency regulation the Secretary determines, on the basis of the best scientific and commercial data available to him, that substantial evidence does not exist to warrant such regulation, he shall withdraw it"; and

(5) by adding at the end thereof the following new subsection:

"(h) Agency Procedures.—The Secretary shall by regulation establish agency procedures to ensure that the purposes of this section are achieved efficiently and effectively. Such procedures shall include, but are not limited to—

"(1) procedures for recording the receipt and the disposition of petitions submitted under subsection (c) (2) of this section;

"(2) criteria for making the findings required under such subsection with respect to petitions;

"(3) a ranking system to ensure that species facing a high degree of threat receive priority review for listing; and implementing, on a priority basis, recovery plans under subsection (g) of this section."

Sec. 5. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is further amended—

(1) by amending subsection (a) —

(A) by striking out "(a) CONSULTATION—" and inserting in lieu thereof "(a) FEDERAL AGENCY ACTIONS AND CONSULTATIONS—(1)";

(B) by striking out the third sentence thereof; and

(C) by adding at the end thereof the following:

"(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an agency action) is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

"(3) Each Federal agency shall confer with the Secretary on any agency action which may jeopardize the continued existence of any species proposed to be listed under section 4 or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. This paragraph does not require a limitation on the commitment of resources as described in subsection (d)."

(2) by amending each of subsections (b), (c), (d), (e) (2), (f), (g) (1) and (5), (h) (1), and (m) by striking out "subsection (a)" wherever it appears therein and inserting in lieu thereof "subsection (a) (2)";

(3) by further amending subsection (c) —

(A) by inserting "(1)" immediately after "BIOLOGICAL ASSESSMENT—" and

(B) by adding at the end thereof the following new paragraph:

"(2) Any person who may wish to apply for an exemption under subsection (g) of this section for that action may conduct a biological assessment to identify any endangered species or threatened species which is likely to be affected by such action. Any such biological assessment must, however, be conducted in cooperation with the Secretary and under the supervision of the appropriate Federal agency."

(4) by further amending subsection (g) (1) by striking out "may jeopardize" and all that follows thereafter in the first sentence thereof and inserting in lieu thereof "would violate subsection (a) (2)";

(5) by amending subsection (2) (A) by striking out "process," and inserting in lieu thereof "process; or, in the case of an agency action involving a permit or license applicant, not later than 90 days after the date on which the Federal agency concerned takes final agency action, for purposes of chapter 7 of title 5, United States Code, with respect to the issuance of the permit or license"; (6) by amending subsection (2) (B) by redesignating subparagraph (B) as subparagraph (C), and by inserting immediately after subparagraph (A) the following new subparagraph:

"(B) If more than one application for exemption is filed for the same agency action, the same review board shall be convened for each application and shall consider each such application in the manner set forth in paragraph (5).";

(7) by amending subsection (2) (5) —

(A) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively, and by striking out "such exemption applicant" in clause (B) (as so redesignated and inserted in lieu thereof "the Federal agency or exemption applicant, as the case may be"; and

(C) by redesignating subclauses (A), (B), and (C) as subclauses (1), (11), and (111), respectively; and

(8) by amending subsection (b) —

(A) by amending paragraph (2) (A) to read as follows:

"(2) (A) Except as provided in subparagraph (B), an exemption for an agency action granted under paragraph (1) shall constitute, but only if a biological assessment has been conducted under subsection (c) with respect to such agency action, a permanent exemption with respect to all endangered or threatened species for the purposes of completing such agency action, regardless whether the species was identified in the biological assessment."; and

"(2) (B) An exemption shall be permanent under subparagraph (A) unless—

(1) the Secretary finds, based on the best scientific and commercial data available, that such exemption would result in the extinction of a species that was not the subject of consultation or was not identified in any biological assessment conducted under subsection (c), and

(11) the Committee determines within 60 days that the exemption should not be permanent."

Sec. 6. The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is further amended—

(1) by striking out subsection (e) of section 8;

(2) by adding immediately after section 8 the following new section:

"CONVENTION IMPLEMENTATION"

"Sec. 8A. (a) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—The Secretary of the Interior (hereinafter in this section referred to as the "Secretary") is designated as the Management Authority and the Scientific Authority for purposes of the Convention and the respective functions of each such Authority shall be carried out through the United States Fish and Wildlife Service.

"(b) MANAGEMENT AUTHORITY FUNCTIONS.—The Secretary is authorized and directed to do all things necessary and appropriate to carry out the functions of the Management Authority under the Convention.

"(c) SCIENTIFIC AUTHORITY FUNCTIONS.—The Secretary is authorized and directed to do all things necessary and appropriate to carry out the functions of the Scientific Authority under the Convention.

"(d) ENDANGERED SPECIES SCIENTIFIC AUTHORITY COMMISSION. (1) There is hereby established within the U.S. Fish and Wildlife Service the Endangered Species Scientific Authority Commission (hereinafter in this section referred to as the "Commission").

"(2) The Commission shall be composed of scientifically qualified agency representatives. Each of the following shall designate one such representative from his agency:

(A) The Secretary of the Interior whose representative shall be the Chairman.

(B) The Secretary of Agriculture.

(C) The Secretary of Commerce.

(D) The Secretary of Health, Education, and Welfare.

(E) The Director of the National Science Foundation.

"(F) The Chairman of the Council on Environmental Quality.

"(G) The Secretary of the Smithsonian Institution is invited to designate a representative.

"(3) The Commission shall make recommendations to the Director of the U.S. Fish and Wildlife Service on all matters pertaining to the responsibilities of the Scientific Authority under the terms of the Convention.

"(4) In the discharge of its responsibilities, the Commission shall, to the extent practicable, ascertain the views of, and utilize the expertise of, the governmental and nongovernmental scientific communities, State agencies responsible for the conservation of wild fauna or flora, humane groups, zoological and botanical institutions, recreational and commercial interests, the conservation community and others as appropriate.

"(5) The Secretary shall designate an Executive Secretary for the Commission, and shall provide the necessary staff and administrative support for the Commission.

"(e) WILDLIFE PRESERVATION IN WESTERN HEMISPHERE.—The President shall designate those agencies of the Federal Government that shall act on behalf of, and represent, the United States in all regards as required by the Convention on Nature Protection and Wilderness Preservation in the Western Hemisphere;"; and

(3) by amending the table of contents by inserting immediately after the section title for section 8 the following: "Sec. 8A. Convention implementation.";

Sec. 7. Section 10(f) of the Endangered Species Act of 1973 (16 U.S.C. 1539 (f)) is amended—

(1) in paragraph (4), by inserting "unless such exemption is renewed under paragraph (8)" after "certificate" in subparagraph (C); and

(2) by adding at the end thereof the following new paragraphs:

"(8) (A) Any person to whom a certificate of exemption has been issued under paragraph (4) of this subsection may apply to the Secretary for a renewal of such exemption for a period not to exceed three years beginning on the expiration date of such certificate. Such application shall be made in the same manner as the application for exemption was made under paragraph (3), but without regard to subparagraph (A) of such paragraph.

"(B) If the Secretary approves any application for renewal of an exemption under this paragraph, he shall issue to the applicant a certificate of renewal of such exemption which shall provide that all terms, conditions, prohibitions, and other regulations made applicable by the original certificate shall remain in effect during the period of the renewal.

"(C) No exemption or renewal of such exemption made under this subsection shall have force and effect after the expiration date of the certificate of renewal of such exemption issued under this paragraph."

Sec. 8. The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is further amended as follows:

(1) Section 2(a) (5) is amended by striking out "fish and wildlife," and inserting in lieu thereof "fish, wildlife, and plants."

(2) Section 4(f) (2) (C) (ii) is amended—

(A) by striking out "fish or wildlife," and inserting in lieu thereof "fish, wildlife, and plants"; and

(B) by striking out "fish and wildlife," and inserting in lieu thereof "fish, wildlife, and plants."

(3) Section 8(b) is amended—

(A) by inserting "and plants" immediately after "fish or wildlife" in paragraph (1); and

(B) by inserting "or plants" immediately after "fish or wildlife" each place it appears in paragraph (3).

(4) Section 15 (as amended by section 2 of this Act) is amended by striking out "Act" at the end of paragraph (2) and inserting in lieu thereof "Act; and"; and by adding immediately after such paragraph the following new paragraph:

"(3) not to exceed \$1,500,000 for fiscal year 1980, not to exceed \$1,750,000 for fiscal year 1981, and not to exceed \$1,850,000 for fiscal year 1982, to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this Act and the Convention which pertain to the importation or exportation of terrestrial plants."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, and for other purposes."

A motion to reconsider was laid on the table.  
A similar House bill (H.R. 2218) was laid on the table.

Calendar No. 161

96TH CONGRESS  
1ST SESSION

**S. 1143**

[Report No. 96-1511]

To extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes

IN THE SENATE OF THE UNITED STATES

MAY 15 (legislative day, APRIL 9), 1979

Mr. CULVER, from the Committee on Environment and Public Works, reported the following bill, which was read twice and ordered placed on the calendar

**A BILL**

To extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes

- 1 *Be it enacted by the Senate and House of Representatives*
- 2 *in session of the United States of America in Congress assembled,*
- 3 That section 7(q) of the Endangered Species Act of 1973 is
- 4 amended by striking, "not to exceed \$600,000 for fiscal year
- 5 1979, and not to exceed \$300,000 for the period beginning
- 6 October 1, 1979, and ending March 31, 1980." and inserting