

Endangered Species Act Amended

Captive Raptors and Their Progeny Exempted

Clifton R. Witt — Washington, D.C.

The final session of the 95th Congress came to an end Sunday, October 17 after a marathon, around the clock, session that saw action on dozens of pieces of legislation. Among them was the first amendments to the Endangered Species Act of 1973.

The U.S. Senate had already passed a Bill introduced by Senator Wollop of Wyoming. The House version was introduced by members of the Committee on Merchant Marine and Fisheries and both bills went to a House-Senate Conference committee which put together what will be known as "The Endangered Species Act Amendments of 1978."

Most observers agree that these amendments were the result of Congressional dissatisfaction with the Supreme Court's ruling against the famous Tellico Dam project that was stopped because it would destroy the critical habitat of the Snail Darter, a three-inch, endangered, fish. While awaiting action on this Bill, the Office of Endangered Species was closed as of October 1 for lack of funding. During the "limbo" period of some 18 days, 195 government workers in this office were laid off and all work on the processing of permits, etc. (such as the AFA petition for CSSP status for the Scarlet Chested and Turquosine) was halted.

Highlights of the Amendments

- 1) The Act is funded from the period of October 1, 1978 to March 31, 1980 in the amount of \$12,500,000.
- 2) The Act is amended so that there will be a mechanism to redesignate "critical habitat" of a species by the Secretary of the Department of the Interior if he finds that the benefits of doing so out-weigh the benefits of the survival of the species. Federal Agencies and other interested parties may petition the Secretary to change the "critical" designation. A temporary Review Board process will be set up to study the request and advise the permanent "Endangered Species Committee" in each and every case. This

Review Board will be made up of three members; one appointed by the President after considering the recommendations of the Governor(s) of the affected state(s), and an administrative law judge. The Board would, among other things, hold public hearings, and provide a summary of their findings to the Endangered Species Committee.

3) The Endangered Species Committee is established. It is comprised of seven members: The Secretary of Agriculture, the Secretary of the Army, the Secretary of the Interior, The Administrator of the National Oceanic and Atmospheric Administration, the Chairman of the Council of Economic Advisors, and the Administrator of the Environmental Protection Agency. The seventh member shall be appointed by the President from the affected State(s) when an exemption is being sought. The Chairman of the Committee will be the Secretary of Interior. An exemption may be granted by a vote of five of the members voting in person.

4) All Raptors (Birds of Prey) *in captivity* at the time of enactment of these amendments are exempted from the Act as are their progeny until such time as they are released back into their natural habitat.

5) Special provisions are extended to the Tellico Dam project which eliminates much of the review process mentioned above and all but guarantees an exemption for that project. So much for the poor Snail Darter.

Important Significance for Aviculture

The significance of this to Aviculture in the U.S. must not be underestimated. First of all, the very fact the Act has been amended means that the door has been opened for future amendments. Exempting captive Raptors and their progeny is the real "block-buster" however. It is an example of how a small group of dedicated aviculturists, namely the Falconers, accomplished what no other animal-interest group has been able to do. The amount and

quality of work and perserverance that was required of them in this lobbying effort is impressive. They deserve our admiration, commendation, and sincere thanks. They have established a precedent which we hopefully will follow up by another amendment that changes the wording to "all birds and animals in captivity," or the equivalent.

So that all AFA members interested in accomplishing such an action might understand the arguments that were used and the intent of the amendments, I am providing below, a verbatim reprint of the House-Senate Conferees' report regarding the exemption of the Raptors:

"Section 4. RAPTORS

During the past 15 years biologists, conservationists, and falconers have been working to produce raptors through propagation in captivity. In this work an emphasis has been placed on raptors which are now listed as endangered under the authority of the Endangered Species Act. However, prohibitions contained in section 9 of the law against commerce in endangered species have impeded these breeding activities.

S. 2899 (the Senate Bill) amends section 9 of the act to clarify the situation regarding domestic, captive-produced raptors. For the purpose of this amendment, raptor means any bird of prey.

Unless specified in other laws, raptors held prior to the enactment of the act on December 28, 1973 are exempted from the provisions and prohibitions of the act. It is the intent of the committee that the domestic captive-produced progeny of any raptor which was legally held prior to enactment will also be exempt from the provisions and prohibitions of the act, even if such progeny were produced after December 28, 1973.

In order to encourage breeding of raptors in captivity, the domestic captive-produced progeny of raptors considered to be endangered, but legally taken from the wild after December 28, 1973, shall be

considered for legal purposes in a like manner as the progeny of raptors captured before 1973. The committee believes this will alleviate some of the human pressures on wild raptor populations, will increase genetic diversity in captive populations, and will further encourage captive production of raptors for conservation, recreation, scientific, and breeding purposes.

Further, it is the intent of the Committee that where domestic captive-bred raptors have been intentionally released and returned to a wild state for conservation and reintroduction purposes, these raptors will be considered to be fully protected under the Act. In the case of raptors, the Congress recognizes the world-wide distribution of various species, such as the Peregrine Falcon. These raptors have subtle regional differences, but constitute a single species. This amendment is intended to apply to the raptor species as inclusive of all of its subspecies or regional differences. In order to augment wild populations, the Secretary should encourage the reintroduction of captive bred raptors into the wild. To that end, it is anticipated that the Secretary, on a discretionary basis, may grant permits to qualified individuals and organizational raptor breeders to obtain additional brood stock from the

wild populations, provided that offspring of such birds are reintroduced back into the wild in a manner designed to effect a net increase in the overall wild population. The procedures for granting permits and reintroducing birds into the wild shall be in accordance with regulations to be promulgated by the Secretary.

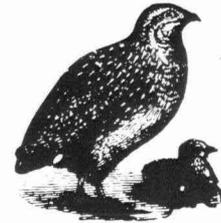
The Secretary may require, by regulation, the owners of all exempted raptors to keep records and require bands or other permanent markings to distinguish them from wild birds. The records and inventories may be inspected by agents of the Secretary at reasonable times. These records, permanent markers and inventory procedures should not unnecessarily duplicate those now required annually under the Migratory Bird Treaty Act for special purpose permits and falconer permits."

As you can see, these are the same arguments we have been using for years for all captive endangered species. We now have a legislative precedent to bolster our arguments.

Finally the Peregrine Falcon may have a chance for survival. The responsibility lies with us, now, to insure the same chance for other species by coordinating our efforts to deregulate all captive birds. Be

prepared to do your part when your chance comes.

For a copy of the "Endangered Species Act Amendments of 1978" please contact your Congressman. The AFA Legislative Liaison will answer specific questions to the best of his ability by telephone at (301) 253-2752.



QUAIL FOR SALE

Normal Buttons . . . \$9.00 pair
 Silver Buttons . . . \$15.00 pair
 Harlequins \$35.00 pair

805 / 968-4024

DOUGAI HOUSE
 269 Orange Ave.
 Goleta, CA 93017

**Psittaci
Formes**



**ANNOUNCING NEW ENGLAND'S LARGEST
WHOLESALE OF EXOTIC BIRDS!!**

**WRITE OR CALL
FOR PRICE LIST.
PHONE CALLS WELCOME**

**SUPER
STOCK!!**

**PSITTACI
FORMES**

12 Jefferson Ave.
W. Hartford, Conn. 06105

(203) 236-5055

