

Mr. OBEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. LEWIS of California. Mr. Speaker, I reserve a point of order on the gentleman's motion.

The SPEAKER pro tempore. A point of order is reserved.

The gentleman from Wisconsin is recognized for 5 minutes in support of his motion.

Mr. OBEY. Mr. Speaker, very briefly, section 1 of the motion to recommit would simply provide that we fund the programs covered under the continuing resolution at the current rate rather than at the lower of either the current rate of the House-passed or the Senate-passed bill. I have already explained the impact of that on program. Section 2 would simply repeal the President's edict that workers in the Katrina-affected region would not be subject to the protections of Davis-Bacon wage protections. Section 3 would simply guarantee that the MILC program remains in force for the same length of time as other titles of the farm bill. And section 4 would require a reduction in the size of the tax cuts for taxpayers with incomes of over \$400,000, as I just described in my previous remarks.

POINT OF ORDER

Mr. LEWIS of California. Mr. Speaker, I make a point of order under clause 7 of rule XVI. The instructions proposed in the motion to recommit range far beyond the subject matter of the joint resolution.

The SPEAKER pro tempore. Does the gentleman from Wisconsin wish to be heard on the point of order?

Mr. OBEY. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. OBEY. Mr. Speaker, if the rules required equity in legislation we brought to the floor, this amendment would be in order. Unfortunately, they do not; so I must reluctantly concede the point of order.

The SPEAKER pro tempore. The point of order is conceded and sustained. The motion is not in order.

The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. POMBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within

which to revise and extend their remarks and include extraneous material on the bill, H.R. 3824.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 470 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3824.

The Chair designates the gentleman from New York (Mr. SWEENEY) as chairman of the Committee of the Whole, and requests the gentleman from Idaho (Mr. SIMPSON) to assume the chair temporarily.

□ 1258

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 consideration of the bill (H.R. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, with Mr. SIMPSON (Acting Chairman) in the Chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL) each will control 45 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

Mr. POMBO. Mr. Chairman, I yield myself such time as I may consume.

We bring up today the Endangered Species Reform Act with the purpose of trying to deal with what some of the real issues are, what some of the real problems are that we have had and have developed over the last 30 years.

If one goes back and reads the original Endangered Species Act, it becomes difficult to be critical of specific language that is in it because the purpose of the Endangered Species Act was to, first of all, prevent species from becoming extinct but, more importantly, to recover those species. And as we look at what has happened over the intervening 30 years, we begin to realize just what problems are with the Act and the way it is being implemented today.

I came into this debate originally because I did not like the way that private property owners were treated under the implementation of the law. That became a big issue in my district and throughout much of the West. Private property owners felt threatened that they would lose their private property and that they could lose control and the ability to use their private property under the implementation of the law.

□ 1300

That became a big problem, and it is something that we began to work on, to try to have some kind of property rights protections in the law.

But the more I got into the Endangered Species Act, the more I realized the law was just not working in terms of recovering species. About 1,300 species have been listed under the Endangered Species Act. Of those 1,300, 10 have been removed because they were recovered. More species have been removed from the list because they became extinct than were recovered.

That less than 1 percent is a complete failure, so we began to really look at the law and see are species really doing better under the Endangered Species Act, and we came to the conclusion that they were not. About three-quarters of the species are either declining in population or the Fish and Wildlife Service has no idea. That is not a success.

When people talk about the act and its importance, they are right, it is important. It is something we all share in terms of preserving wildlife and preserving species. But when the law is not working, we have to respond to that and step in and reauthorize the bill, put the focus on recovery and protect private property owners.

As we have gone through this last several months, I have had the opportunity to work with the ranking member, the gentleman from West Virginia (Mr. RAHALL), and his staff; and I thank them for all of the work that they put into this bill to get us to this point. We worked extremely hard to try and find a compromise bill.

In the end, there were a few issues that we just disagreed on, there were issues we could not come to a conclusion on, but the vast majority of what is in the underlying bill was an agreement that we were able to work out and that I stand by. I believe it is good work, that it is something that is extremely important.

But I will say that, in the end, private property rights, the protection of those property owners, has to be in the final bill, because the only way this is going to work is if we bring in property owners to be part of the solution and be part of recovering those species.

Mr. Chairman, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from California and I have been working together for the last several months to try to find common ground on the amendments to the Endangered Species Act. As the chairman knows and many of my colleagues, I came to our discussions with the view that the ESA does not need amendment, that most of its problems could be fixed by additional appropriations or administrative changes that this administration is not willing to make.

Recognizing reality, I decided to enter into good-faith negotiations with

my chairman, and that is what they were. I salute the manner in which the gentleman from California conducted himself and the manner in which his staff treated the minority during this entire process. It was a fair process; and, indeed, when we had problems, we found open communication was received from the other side of the aisle, and I appreciate that. In the end, however, we could not reach agreement.

I do not support the pending legislation, but I must admit that we have come a long way. Yet we still have differences that divide us, differences in some instances that I have yet to discover. In fact, the manager's amendment has been redrafted so many times, the latest version is still hot off the presses.

I wish the bill, because of these latest changes in the manager's amendment, were not being rushed to the House floor. I wish that the driving force was not the zeal to pass anything that could be labeled ESA reform, but instead could be labeled truly species recovery.

With a little more time to consider how much this bill is going to cost the American taxpayers, we could at least have had a chance to see how much we are going to lose in the exchange. In the last several hours, the bill passed out of the committee has completely blown apart. For example, the manager's amendment abandons the definition of jeopardizing a species we agreed upon in committee. Instead, the Secretary of the Interior will use existing regulations which allow Federal actions to proceed, even if they will reduce the likelihood of a species' survival and recovery. The survival standard is akin to keeping a patient on life support without any chance of recovery.

According to the Congressional Budget Office, if this is enacted into law, it will increase direct spending and would cost almost \$3 billion to implement from the years 2006 to 2010.

So in my view, this bill offers endangered species less protection at far greater cost. Not only was fiscal responsibility thrown to the wind in this process, but we have turned back the clock to an era in which DDT was commonly known as "drop dead twice." H.R. 3824 includes a provision adopted in the Committee on Resources that would repeal the Endangered Species Act provisions that protect threatened and endangered species from the harmful impact of pesticides.

H.R. 3824 would insulate those who use pesticides from the Endangered Species Act prohibitions against killing endangered and threatened species. As long as corporations comply with Federal requirements to register pesticide users, they will have no obligation to meet the requirements in the Endangered Species Act. The economic and environmental implications of this provision are staggering.

But where the budget really leaks is from the gaping hole created by a new,

potentially open-ended entitlement program for property developers and speculators. This, I might add, is where we truly broke down in our negotiations.

Section 14 would establish the dangerous precedent that private individuals must be paid to comply with an environmental law. If this language were applied to local zoning, no mayor, no city council could govern a community without fear that their decisions might drive the community into financial ruin. This section pays citizens to comply with the law. What is next, paying citizens to wear seat belts, to comply with speed limits, to pay their taxes?

This bill also contains provisions that would severely weaken the consultation process, the very heart of the ESA. Under current law, the Fish and Wildlife Service analyzes a proposed action to gauge if it is likely to place the continued existence of a species in jeopardy. The process is grounded in science and must meet reasonable criteria.

This bill, quite to the contrary of current practice, wipes away any standards for that process. It wipes away review by wildlife experts. Gone. Proponents claim this change is justified because of the service's heavy workload. Instead of fixing the problem by giving Fish and Wildlife more resources, the bill simply changes the rules and undermines species recovery.

Finally, Mr. Chairman, I oppose another provision that would further weaken the section 7 consultation requirement when applied to state cooperative agreements. Under section 10 of H.R. 3824, no additional consultations will be required once the Secretary enters into a cooperative agreement with a State. It is questionable whether consultation would ever occur, even in those situations causing jeopardy to a listed species.

These provisions, taken together, raise a whole host of questions and concerns. What is clear is that this bill will not improve species' ability to recover. Quite likely it will result in more extinctions, the loss of more of the creatures God has placed in our care. Frankly, we cannot be good stewards of His creation and pass this bill.

For these reasons, Mr. Chairman, I strongly oppose H.R. 3824. However, I have worked, as I said in the beginning, well with the gentleman from California on this bill; and I do salute his tenaciousness, his patience, and his courage in bringing this bill to the floor.

I would have preferred we keep trying to resolve our differences, but that is not the situation we are in today, so I would urge my colleagues to oppose H.R. 3824.

Mr. Chairman, I reserve the balance of my time.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Montana (Mr. REHBERG).

Mr. REHBERG. Mr. Chairman, I want to thank the gentleman from Cali-

fornia for keeping this issue on the front burner.

I have come to learn in my time in Congress that people support reform, as long as it does not change anything, and that is what we find with the endangered species reform.

I thought I was given a great honor when I first got here in the year 2001. The gentleman from Alaska (Mr. YOUNG) of the Committee on Resources put me on the study group to talk about the Endangered Species Act, to try and finally get it off the dime. The gentleman from West Virginia (Mr. RAHALL), the gentleman from Michigan (Mr. DINGELL), and the gentleman from California (Mr. GEORGE MILLER) were the Democrats; and the gentleman from Alaska (Mr. YOUNG) and the gentleman from California (Mr. POMBO) and myself were the Republicans, and, unfortunately, it took us literally 6 months to finally agree what time to meet and where.

The difficulty with the Endangered Species Act is it is failing endangered species. Anytime you start getting T-shirts and bumper stickers and jokes about a law, you know you have got a problem. I brought along a shovel today because the biggest joke in Montana is shoot, shovel, and shut up.

The problem is there are those that want to protect species. They do not want them to become extinct. They want to do the right thing. But this Congress many years ago created a disincentive to do the right thing, rather than an incentive; and if you learn anything about public administration or government, when you create a disincentive, usually you are pretty successful.

We are not saving the species we need to. We need to get off the dime. We need to finally solve this issue. Everybody recognizes it is broke. We can no longer use the excuse that it is just not exactly what we want. It is time to end the joke of shoot, shovel, and shut up.

I want to thank the gentleman from California for bringing this issue forward and finally getting off the dime and giving us an opportunity to vote for a reform package that truly does what we need to do, and that is save the species of this country.

Mr. RAHALL. Mr. Chairman I reserve the balance of my time.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Chairman, would the chairman of the Committee on Resources agree to enter into a colloquy?

Mr. POMBO. Yes, Mr. Chairman, I would.

Mr. HERGER. First let me say to the gentleman that I am very appreciative of his efforts here to make the ESA a better law.

Mr. Chairman, it is my understanding that the legislation would provide the President the authority to waive or expedite any provision of the act in the event of a major national disaster. I also understand that the legislation would require the Secretary to

develop regulations establishing procedures for an expedited application or waiver of the act for agency actions that would be undertaken to address threats to human health or safety.

Mr. POMBO. The gentleman is correct.

Mr. HERGER. I thank the chairman.

As you know, Mr. Chairman, a terrible situation occurred in my district in Northern California several years ago where a levee that protects one of the communities I represent had deteriorated to such a point that the Corps of Engineers predicted that this degraded levee, without repair, presented a threat to human life. Regrettably, repairs to that levee were unable to proceed in a timely manner due to the lengthy consultation process, even though this very serious warning had been issued by the corps. I am sure the chairman has heard of other similar examples where the application of the Endangered Species Act has complicated or delayed urgent and targeted levee repairs from occurring when they are needed to protect people from flooding.

Mr. POMBO. Mr. Chairman, I am certainly well aware of the situation that the gentleman is speaking to. I was a Member of Congress at the time that that levee broke and tried at that point to help the gentleman to take care of that problem before it broke.

Mr. HERGER. Mr. Chairman, it is my understanding that the Secretary currently has in place emergency regulations that allow for expedited consultation in the event of an immediate threat to public safety, as, for example, when the floodwaters are rising and are feet or perhaps even inches away from breaking or breaching a levee.

Is the chairman's understanding that the intent of the legislation is to require the development of additional regulations that would allow the Secretary to expedite the application of the act for agency actions necessary to address threats to human health or safety?

Mr. POMBO. The gentleman is correct.

Mr. HERGER. Mr. Chairman, I thank the gentleman for that clarification.

Again, Mr. Chairman, I want to commend the gentleman for his leadership and years of work he has invested in making the Endangered Species Act a more responsive and effective law.

□ 1315

Mr. POMBO. Mr. Chairman, I ask unanimous consent to allow the gentleman from California (Mr. CARDOZA) to have 20 minutes of my time and to control that time.

The CHAIRMAN. The gentleman is advised that the Committee of the Whole is not able to entertain such a request.

Mr. RAHALL. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, in response to the last colloquy that just took place between the two gentlemen from California in regard to emergency powers that would be granted the President to waive provisions of the Endangered Species Act,

I just wanted to respond that the Endangered Species Act did not get in the way in any manner whatsoever of recovery efforts in response to Hurricanes Katrina and Rita. Whatever provisions that were needed to be waived were waived under current law, without any additional authority being needed by the President.

So I just wanted to make that clear for the record that ESA did not hamper any recovery efforts for any of the most recent hurricanes.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arizona (Mr. GRIJALVA), a distinguished member of our committee.

Mr. GRIJALVA. Mr. Chairman, today I rise in opposition to H.R. 3824.

In the 1960s, Rachel Carson's book "Silent Spring" documented the harmful effects of DDT and other pesticides on songbirds. This prompted a ban on DDT and the passage of the original Endangered Species Act. The ban on DDT, which the EPA said posed unacceptable risks to the environment and human health, saved the bald eagle and countless other species from going extinct.

Today we are considering a bill that would usher in another silent spring by eliminating the oversight for the registration of pesticides which harm wildlife and people.

H.R. 3824 contains a provision allowing EPA to consult with itself in determining the potential impacts of pesticide registration on endangered wildlife and fish, instead of consulting with the Fish and Wildlife Service or the National Marine Fisheries Service, which are the expert agencies whose mission is either in whole or in part to conserve species.

H.R. 3824 would take away the ability to stop pesticide use even when necessary to prevent extinction. Without existing checks and balances on pesticide use, the effect on wildlife could be devastating. Humans could be hurt too, because toxic pesticides are applied by farm workers that make their way into our Nation's streams, rivers, and food supply.

Pesticides poison 10,000 to 20,000 agricultural workers each year and are estimated to kill more than 67 million birds annually. But the EPA currently only requires balancing the profits from using a pesticide against the dollar value of harm caused by that pesticide. The Endangered Species Act, on the other hand, recognizes what almost all Americans believe, that no dollar amount can be placed on the extension of our Nation's treasured wildlife or on the human health of people who work in those fields.

The substitute to H.R. 3824 would leave existing law unchanged. It would leave in place current safeguards by requiring an analysis based on the health of wildlife, not the company's bottom line.

For this reason and many others, I urge my colleagues to join me in opposing this controversial bill and voting "yes" on the Miller substitute.

Mr. POMBO. 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. GOODLATTE) having assumed the chair, Mr. SWEENEY, 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. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, had come to no resolution thereon.

CONTROLLING TIME OF GENERAL DEBATE DURING FURTHER CONSIDERATION OF H.R. 3824, THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

Mr. POMBO. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 3824 pursuant to H. Res. 470 that the gentleman from California (Mr. CARDOZA) may control 20 minutes of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 470 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3824.

□ 1320

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. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, with Mr. SWEENEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the gentleman from California (Mr. POMBO) had 36½ minutes remaining and the gentleman from West Virginia (Mr. RAHALL) had 36 minutes remaining.

Pursuant to the order of the House of today, the gentleman from California (Mr. POMBO) has 16½ minutes remaining and the gentleman from California (Mr. CARDOZA) has 20 minutes remaining.

The Chair recognizes the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, when the Endangered Species Act was adopted by Congress in 1973, it was heralded as landmark use of environmental legislation for the protection and conservation of threatened and endangered species. At that time, it was clearly understood that the ultimate goal of the act was to focus Federal resources on listed species so that, in time, they could be returned to a healthy state and be removed from the list.