

Congress all strongly support the basic intent of the Migratory Bird Treaty Act that our migratory bird resources must be protected from overexploitation. Sportsmen have consistently demonstrated their commitment to the wise use of renewable wildlife resources through reasoned management and enforcement of appropriate regulations.

Over the years, various prohibitions on the manner and methods of taking migratory birds have been embodied in regulations. Many of these prohibitions are decades old and have the support of all persons concerned with protecting migratory birds. In my judgment, it would be appropriate to incorporate these regulations in statutory law, and my proposed bill accomplishes that objective. This provision does not, however, restrict or alter the Secretary of the Interior's annual responsibilities to establish bag limits or duration of seasons. Nor does it prevent additional prohibitions, including hunting methods of migratory birds, from being implemented.

Second, a fundamental goal of the Migratory Bird Treaty Reform Act of 1997 is to address the baiting issue. Under my proposed legislation, no person may take migratory birds by the aid of bait, or on or over bait, where that person knew or should have known the bait was present. The provision removes the strict liability interpretation made first by a Federal court in Kentucky in 1939, and presently followed by a majority of Federal courts. With this provision, uniformity in the application of the prohibition is established.

As important, however, is the establishment of a standard that permits a determination of the actual guilt of the defendant. If the facts demonstrate that the hunter knew or should have known of the alleged bait, liability—which includes fines and potential incarceration—will be imposed. If by the evidence, however, the hunter could not have reasonably known that the alleged bait was present, liability would not be imposed and penalties would not be assessed. This would be a question of fact to be determined by the court based on the totality of the evidence presented.

Furthermore, the exceptions to baiting prohibitions contained in Federal regulations have been amended to permit exemption for grains found on a hunting site as a result of normal agricultural planting and harvesting as well as normal agricultural operations. This proposed change will establish reasonable guidelines for both the hunter and the law enforcement official.

To determine what is a normal agricultural operation in a given region, the U.S. Fish and Wildlife Service will be required to annually publish, in the Federal Register, a notice for public comment defining what is a normal agricultural operation for that particular geographic area. This determination is to be made only after meaningful consultation with relevant State and Federal agencies and an opportunity for public comment. Again, the goal of this effort is to provide uniformity and clarity for landowners, farmers, wildlife managers, law enforcement officials, and hunters so they know what a normal agricultural operation is for their region.

In addition, the proposed legislation permits the scattering of various substances like grains and seeds, which are currently considered bait, if it is done to feed farm animals and is a normal agricultural operation in a given area, as recognized by the Fish and

Wildlife Service and published in the Federal Register.

Finally, the term bait is defined as the intentional placing of the offending grain, salt, or other feed. This concept removes from violation the accidental appearance of bait at or near the hunting venue. There have been cases where hunters have been charged with violating baiting regulations as a result of grain being unintentionally spilled on a public road, where foreign grain was inadvertently mixed in with other seed by the seller and later found at a hunting site, and where foreign grain was deposited by animals or running water. These are examples of actual cases where citations were given to individuals for violations of the baiting regulations.

Under my proposed legislation, the hunter would also be permitted to introduce evidence at trial on what degree the alleged bait acted as the lure or attraction for the migratory birds in a given area. In cases where 13 kernels of corn were found in a pond in the middle of a 300-acre field planted in corn or where 34 kernels of corn were found in a wheat field next to a freshwater river, the bait was clearly not the reason migratory birds were in the hunting area. First, it was not intentionally placed there and, second, it could not be considered an effective lure or attraction under the factual circumstances. These are questions of fact to be determined in a court of law. Currently, however, evidence of these matters is entirely excluded as irrelevant under the strict liability doctrine.

In 1934, Congress enacted the Migratory Bird Conservation Act as a mechanism to provide badly needed funds to purchase suitable habitat for migratory birds. Today, that need still exists, and my legislation will require that all fines and penalties collected under the MBTA be deposited into the Migratory Bird Conservation Fund. These funds are essential to the long-term survival of our migratory bird populations.

Finally, this measure proposes that personal property that is seized can be returned to the owner by way of a bond or other surety, prior to trial, at the discretion of the court.

Mr. Speaker, the purpose of the proposed Migratory Bird Treaty Reform Act is to provide clear guidance to landowners, farmers, wildlife managers, hunters, law enforcement officials, and the courts on what are the restrictions on the taking of migratory birds. The conflict within the Federal judicial system and the inconsistent application of enforcement within the U.S. Fish and Wildlife Service must be resolved. The proposed legislation accomplishes that objective without, in any manner, weakening the intent of current restrictions on the method and manner of taking migratory birds; nor do the proposed provisions weaken protection of the resource. Finally, the proposed legislation does not alter or restrict the Secretary of the Interior's ability to promulgate annual regulations nor inhibit the issuance of further restrictions on the taking of migratory birds.

Mr. Speaker, I urge my colleagues to carefully review the Migratory Bird Treaty Reform Act of 1997. It is a long overdue solution to several ongoing problems that regrettably continue to unfairly penalize many law-abiding hunters in this country.

TRIBUTE TO MONTEFIORE MEDICAL CENTER

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 12, 1997

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Montefiore Medical Center for 50 years of caring in our Bronx community.

Mr. Speaker, this year, 1997, marks the 50th anniversary of the Montefiore Home Health Agency. Since its inception as the first hospital-based home health agency in the United States, Montefiore has cared for tens of thousands of patients.

Montefiore offers a variety of programs. The long term home health care program, provides a continuum of care at home to the chronically ill, who would otherwise require nursing home placement. The teleCare program provides 24-hour access to emergency assistance in the home. The certified home health agency provides short-term care to patients in the post-hospital period. Such programs have been vital to patients recovery and recuperation.

I would like to highlight the staff's devotion and energy in tending to the individual needs of each patient. Medical social workers provide unique and personal care. They teach patients how to use a variety of assistance devices. From nurses to occupational and physical therapists, these fine professionals are there when needed.

Montefiore and its home health care staff stand out in their field. Montefiore succeeds in dramatically improving patients' quality of life.

Mr. Speaker, let us join in the celebration of this milestone and acknowledge this outstanding agency for 50 years of accomplishment and service.

THE INTRODUCTION OF THE SECURITY AND FREEDOM THROUGH ENCRYPTION [SAFE] ACT

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 12, 1997

Mr. GOODLATTE. Mr. Speaker, today I am pleased, along with 54 of my colleagues, to introduce the Security And Freedom through Encryption [SAFE] Act of 1997.

This much-needed, bipartisan legislation accomplishes several important goals. First, it aids law enforcement by preventing piracy and white-collar crime on the Internet. It an ounce of prevention is worth a pound of cure, then an ounce of encryption is worth a pound of subpoenas. With the speed of transactions and communications on the Internet, law enforcement cannot possibly deal with pirates and criminal hackers by waiting to react until after the fact.

Only by allowing the use of strong encryption, not only domestically but internationally as well, can we hope to make the Internet a safe and secure environment. As the National Research Council's Committee on National Cryptography Policy concluded:

If cryptography can protect the trade secrets and proprietary information of businesses and thereby reduce economic espionage (which it can), it also supports in a