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No. 1832

## IMPORTATION OF WILD-BIRD FEATHERS

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Mr. GEORGE, from the Committee on Finance, submitted the following

### REPORT

[To accompany H. R. 7594]

The Committee on Finance, to whom was referred the bill (H. R. 7594) to amend the Tariff Act of 1930 with respect to the importation of the feathers of wild birds, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

By virtue of this act, the Committee on Finance accepts the report of the Committee on Ways and Means which is as follows:

#### PURPOSE

This bill would amend the Tariff Act of 1930 to strengthen the provision of existing tariff laws designed to aid in the conservation of wild birds. Feathers of wild birds now may be imported lawfully only for use in the manufacture of artificial flies, or for scientific or educational purposes, although conservation groups have claimed that large quantities of wild-bird feathers have been diverted to millinery use. Still other quantities of wild-bird feathers have been imported under the claim that they have been taken from the domesticated breeds of wild-bird species. Accordingly, the bill would limit the importation of feathers to feathers or plumes of domestic chickens (including hens and roosters), turkeys, guinea fowl, geese, ducks, pigeons, ostriches, rheas, English ring-necked pheasants, and peafowl (not including those of any wild birds raised in captivity), and the importation of not to exceed specified numbers of necks or capes and skins or parts of skins of certain named birds for use in the manufacture of artificial flies used for fishing and for millinery purposes.

The clarification and limitation of the provisions for the importation of feathers will make more effective conservation possible.

#### GENERAL STATEMENT

At the present time there is no limitation on the importation of feathers of wild birds used for artificial flies for fishing, and regulations have required only that importers file affidavits to the effect that the imported feathers are to be used for that purpose. Again, the plumage of certain species, which may have been obtained from either wild or domestic birds, is being admitted upon the presentation of affidavits certifying that it was taken from domestic birds. The affidavit system has been abused to such an extent that this control, which is

limited at best, has not been effective. Furthermore, the millinery industry has not been permitted to legitimately import feathers which are a requisite to the continuation of that trade. Efforts to raise wild birds in captivity in this country as a substitute source of feathers have not been very successful, primarily because the costs involved have been rather prohibitive.

Through the efforts of the National Audubon Society various private organizations interested in the conservation of wildlife, the Associated Fishing Tackle Manufacturers, and the Feather Industries of America, Inc., have agreed that the proposed amendment would eliminate abuses with relation to the importation of feathers for use in the manufacture of artificial flies, would obviate the inequities with respect to the millinery industry, and would limit the quantities which may be imported to the maximum amounts needed for the respective purposes without endangering the wild supply of these birds. The committee believes that this view is substantially sound and considers the proposed bill as a measure which will advance the cause of conservation.

Favorable reports on a similar bill were received from the Department of Commerce and the Department of the Interior, and the Treasury Department reported that no administrative difficulties were anticipated in carrying out the provisions of the legislation.

The bill was reported unanimously by your committee.

#### TECHNICAL DISCUSSION

Paragraph 1518 of the Tariff Act of 1930 imposes duties on natural feathers, but the first proviso in that paragraph prohibits the importation of wild-bird feathers and parts of wild birds unless imported for scientific or educational purposes. The proviso further states that the prohibition against imports of feathers shall not apply to feathers or plumes of ostriches, or to the feathers or plumes of domesticated fowls of any kind. A second proviso of paragraph 1518 and two additional paragraphs immediately following prescribe rules of procedure for seizure and forfeiture of illegally imported feathers.

Paragraph 1535 of the Tariff Act imposes duties on artificial flies and other fishing equipment, and the proviso in that paragraph states that any prohibition of the importation of feathers in the Tariff Act shall not be construed as applying to artificial flies used for fishing, or to feathers used for the manufacture of such flies.

Section 1 of the bill amends paragraph 1518 of the Tariff Act by designating the first subparagraph thereof as subparagraph (a) and by striking out the two provisos at the end of the first subparagraph and all the second subparagraph, which prescribe the prohibition of the importation of wild birds, wild bird feathers, and parts of wild birds described above. In lieu of two provisos at the end of the first subparagraph and the second subparagraph of paragraph 1518, there is inserted new subparagraphs (b), (c), (d), (e), and (f) as follows:

*Subparagraph (b).*—This new subparagraph prescribes a general prohibition of the importation of the feathers or skin of any bird whether raw or processed, whether the whole plumage or skin or any part of either, whether or not attached to a whole bird or any part thereof, and whether or not forming part of another article. The prohibition applies whether the bird is wild or domesticated and the only exceptions to the prohibition are provided by new subparagraphs (c) and (d) of paragraph 1518.

*Subparagraph (c).*—This new subparagraph states that the general prohibition of importation of the feathers or skin of a bird in new subparagraph (b) shall not apply in the following cases:

1. In respect of any of the following birds: Chickens (including hens and roosters), turkeys, guinea fowl, geese, ducks, pigeons, ostriches, rheas, English ring-necked pheasants, and peafowl. The prohibition would apply, however, in respect of any such bird which, whether or not raised in captivity, is a wild bird. It is understood that a species of wild bird is considered to have become domesticated after the second generation in captivity.

2. To any importation for scientific or educational purposes, just as is provided under existing law.

3. To the importation of fully manufactured artificial flies used for fishing. This exception from the general prohibition is a substitute for a portion of the proviso now contained in paragraph 1535 of the Tariff Act.

4. To the importation of live game birds imported for stocking purposes and game birds killed in foreign countries by residents of the United States and imported by them for noncommercial purposes, which are classifiable under paragraph 1682 of the Tariff Act.

## 5. To the importation of live birds.

*Subparagraph (d).*—This new subparagraph prescribes a further exception to the general prohibition of the importation of the feathers or skins of birds, subject to the following quotas:

1. For use in the manufacture of artificial flies used for fishing: (A) not more than 5,000 skins of gray jungle fowl (*Gallus sonneratii*), and (B) not more than 1,000 skins of mandarin duck (*Dendronessa galericulata*); and

2. For use in the manufacture of artificial flies used for fishing, or for millinery purposes, not more than 45,000 skins, in the aggregate, of the following species of pheasant: Lady Amherst's pheasant (*Chrysolophus amherstiae*), golden pheasant (*Chrysolophus pictus*), silver pheasant (*Lophura nycthemera*), Reeves pheasant (*Syrnaticus reevesii*), blue-eared pheasant (*Crossoptilon auritum*), and brown-eared pheasant (*Crossoptilon mantchuricum*).

In case of doubt as to the classification of birds specified in the quotas, it is the intent of your committee that the Latin nomenclature shall govern. In the application of the quotas, any part of a skin which has been severed shall be considered to be a whole skin.

*Subparagraph (e).*—This new subparagraph establishes the procedure for administration by the Secretary of the Interior of the quotas prescribed in subparagraph (d). A permit issued by the Secretary of the Interior would be required for entry, or withdrawal from warehouse, for consumption, under the quotas, of skins bearing feathers. The Secretary of the Interior is directed to prescribe regulations for the administration of the quotas, including regulations providing for equitable allocation among qualified applicants of the import quotas. Whenever the Secretary of the Interior finds that the wild supply of any species which may be imported under the quotas specified in subparagraph (d) is threatened with serious reduction or extinction, he will by regulations prescribe appropriate reduction or elimination of quotas.

*Subparagraph (f).*—This new subparagraph provides that the feathers or skin of any bird, the importation of which is prohibited or subjected to a quota by subparagraphs (b), (c), and (d) of paragraph 1518, which is in the United States shall be presumed for the purposes of seizure and forfeiture to be imported in violation of law. Any such article shall be seized and forfeited under the customs laws unless this presumption is satisfactorily rebutted, with the exception that the presumption shall not apply to articles in actual use for personal adornment or for scientific or educational purposes. Articles so forfeited may in the discretion of the Secretary of the Treasury, under applicable regulations, be placed with any agency of the Federal Government or of any State government or any society or museum for exhibition or scientific or educational purposes, or may be destroyed.

Section 2 of the bill makes a technical change.

Section 3 of the bill strikes out the proviso in paragraph 1535 of the Tariff Act of 1930 which states that any prohibition of the importation of feathers in the tariff act shall not be construed as applying to artificial flies used for fishing, or to feathers used for the manufacture of such flies. As indicated above, new subparagraph (b) of paragraph 1518 makes the general prohibition of the importation of the feathers or skins of birds inapplicable to the importation of fully manufactured artificial flies used for fishing. The importation of feathers used for the manufacture of artificial flies used for fishing is now permitted only within the limits prescribed by new subparagraphs (c) and (d) of paragraph 1518.

Section 4 of the bill provides that the amendments shall take effect at the close of the thirtieth day after the date of enactment.

Enactment of this bill is not to be construed to modify, amend, or repeal existing laws relating to the importation of birds (other than those provisions expressly amended by the bill). For example, the bill makes no change in sections 42, 43, and 44 of title 18 of the United States Code.

## CHANGES IN EXISTING LAW

In accordance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

## TARIFF ACT OF 1930, AS AMENDED

PAR. 1518. (a) Feathers and downs, on the skin or otherwise, crude or not dressed, colored, or otherwise advanced or manufactured in any manner, not specially provided for, 20 per centum ad valorem; dressed, colored, or otherwise advanced or manufactured in any manner, including quilts of down and other manufactures of down, 60 per centum ad valorem; feather dusters, 45 per centum ad valorem; artificial or ornamental feathers suitable for use as millinery ornaments, 60 per centum ad valorem; artificial or ornamental fruits, vegetables, grasses, grains, leaves, flowers, stems, or parts thereof, when composed wholly or in chief value of yarns, threads, filaments, tinsel wire, lamé, bullions, metal threads, beads, bugles, spangles, or rayon or other synthetic textile, 90 per centum ad valorem; when composed wholly or in chief value of other materials and not specially provided for, 60 per centum ad valorem; natural grasses, grains, leaves, plants, shrubs, herbs, trees, and parts thereof, not specially provided for, when bleached, 50 per centum ad valorem; when colored, dyed, painted, or chemically treated, 75 per centum ad valorem; boas, boutonnieres, wreaths, and all articles not specially provided for, composed wholly or in chief value of any of the feathers, flowers, leaves, or other material above mentioned, shall be subject to the rate of duty provided in this paragraph for such materials, but not less than 60 per centum ad valorem [ *Provided*, That the importation of birds of paradise, aigrettes, egret plumes or so-called osprey plumes, and the feathers, quills, heads, wings, tails, skins, or parts of skins, of wild birds, either raw or manufactured, and not for scientific or educational purposes, is hereby prohibited; but this provision shall not apply to the feathers or plumes of ostriches or to the feathers or plumes of domestic fowls of any kind; *Provided further*, That birds of paradise, and the feathers, quills, heads, wings, tails, skins, or parts thereof, and all aigrettes, egret plumes, or so-called osprey plumes, and the feathers, quills, heads, wings, tails, skins, or parts of skins, of wild birds, either raw or manufactured, of like kind to those the importation of which is prohibited by the foregoing provisions of this paragraph, which may be found in the United States, on and after the passage of this Act, except as to such plumage or parts of birds in actual use for personal adornment, and except such plumage, birds or parts thereof imported therein for scientific or educational purposes, shall be presumed for the purpose of seizure to have been imported unlawfully after October 3, 1913, and the collector of customs shall seize the same unless the possessor thereof shall establish, to the satisfaction of the collector that the same were imported into the United States prior to October 3, 1913, or as to such plumage or parts of birds that they were plucked or derived in the United States from birds lawfully therein; and in case of seizure by the collector, he shall proceed as in case of forfeiture for violation of the customs laws, and the same shall be forfeited, unless the claimant shall, in any legal proceeding to enforce such forfeiture, other than a criminal prosecution, overcome the presumption of illegal importation and establish that the birds or articles seized, of like kind to those mentioned the importation of which is prohibited as above, were imported into the United States prior to October 3, 1913, or were plucked in the United States from birds lawfully therein.

[That whenever birds or plumage, the importation of which is prohibited by the foregoing provisions of this paragraph, are forfeited to the Government, the Secretary of the Treasury is hereby authorized to place the same with the departments or bureaus of the Federal or State Governments or societies or museums for exhibition or scientific or educational purposes, but not for sale or personal use; and in the event of such birds or plumage not being required or desired by either Federal or State Government or for educational purposes, they shall be destroyed].

(b) *Except as provided in subparagraphs (c) and (d), the importation of the feathers or skin of any bird is hereby prohibited. Such prohibition shall apply to the feathers or skin of any bird—*

- (1) *whether raw or processed;*
- (2) *whether the whole plumage or skin or any part of either;*
- (3) *whether or not attached to a whole bird or any part thereof; and*
- (4) *whether or not forming part of another article.*

(c) *Subparagraph (b) shall not apply—*

- (1) *in respect of any of the following birds (other than any such bird which, whether or not raised in captivity, is a wild bird): chickens (including hens and roosters), turkeys, guinea fowl, geese, ducks, pigeons, ostriches, rheas, English ring-necked pheasants, and pea fowl;*
- (2) *to any importation for scientific or educational purposes;*

- (3) to the importation of fully manufactured artificial flies used for fishing;  
 (4) to the importation of birds which are classifiable under paragraph 1682; and  
 (5) to the importation of live birds.

(d) Notwithstanding subparagraph (b), there may be entered, or withdrawn from warehouse, for consumption in each calendar year the following quotas of skins bearing feathers:

(1) For use in the manufacture of artificial flies used for fishing; (A) not more than 5,000 skins of grey jungle fowl (*Gallus sonneratii*), and (B) not more than 1,000 skins of mandarin duck (*Dendronessa galericulata*); and

(2) For use in the manufacture of artificial flies used for fishing, or for millinery purposes, not more than 45,000 skins, in the aggregate, of the following species of pheasant; Lady Amherst pheasant (*Chrysolophus amherstiae*), golden pheasant (*Chrysolophus pictus*), silver pheasant (*Lophura nychhemera*), Reeves pheasant (*Syrmaicus reevesii*), blue-eared pheasant (*Crossoptilon auritum*), and brown-eared pheasant (*Crossoptilon mantchuricum*).

For the purposes of this subparagraph any part of a skin which has been severed shall be considered to be a whole skin.

(e) No article specified in subparagraph (d) shall be entered, or withdrawn from warehouse, for consumption except under a permit issued by the Secretary of the Interior. The Secretary of the Interior shall prescribe such regulations as may be necessary to carry out the purposes and provisions of subparagraph (d) (including regulations providing for equitable allocation among qualified applicants of the import quotas established by such subparagraph). Whenever the Secretary of the Interior finds that the wild supply of any species mentioned in subparagraph (d) is threatened with serious reduction or with extinction, he shall prescribe regulations which provide (to such extent and for such period as he deems necessary to meet such threat)—

(1) in the case of grey jungle fowl or mandarin duck, for the reduction of the applicable import quota; or

(2) in the case of any species of pheasant, for the reduction of the import quota established for pheasants, for the establishment of a subquota for such species of pheasant, or for the elimination of such species from the import quota for pheasants, or any combination thereof.

The authority granted to the Secretary of the Interior by the preceding sentence to reduce any import quota shall include authority to eliminate such quota.

(f) Any article of a kind the importation of which is prohibited or subjected to a quota by subparagraphs (b), (c), and (d) and which is in the United States shall be presumed for the purposes of seizure and forfeiture to have been imported in violation of law and shall be seized and forfeited under the customs laws unless such presumption is satisfactorily rebutted; except that such presumption shall not apply to articles in actual use for personal adornment or for scientific or educational purposes. Any article so forfeited may (in the discretion of the Secretary of the Treasury and under such regulations as he may prescribe) (1) be placed with any agency of the Federal Government or of any State government, or any society or museum, for exhibition or scientific or educational purposes, or (2) be destroyed.

【That nothing】 (g) Nothing in this Act shall be construed to repeal the provisions of the Act of March 4, 1913, chapter 145 (Thirty-seventh Statutes at Large, page 847), or the Act of July 3, 1918 (Fortieth Statutes at Large, page 755), or any other law of the United States, now of force, intended for the protection or preservation of birds within the United States. That if on investigation by the collector before seizure, or before trial for forfeiture, or if at such trial if such seizure has been made, it shall be made to appear to the collector, or the prosecuting officer of the Government, as the case may be, that no illegal importation of such feathers has been made, but that the possession, acquisition or purchase of such feathers is or has been made in violation of the provisions of the Act of March 4, 1913, chapter 145 (Thirty-seventh Statutes at Large, page 847), or the Act of July 3, 1918 (Fortieth Statutes at Large, page 755), or any other law of the United States, now of force, intended for the protection or preservation of birds within the United States, it shall be the duty of the collector, or such prosecuting officer, as the case may be, to report the facts to the proper officials of the United States, or State or Territory charged with the duty of enforcing such laws.

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PAR. 1535. Artificial flies, snelled hooks, leaders or casts, finished or unfinished, 55 per centum ad valorem; fishing rods and reels, and parts thereof, finished or unfinished, not specially provided for, 55 per centum ad valorem; fish hooks, artificial baits, and all other fishing tackle and parts thereof, fly books, fly boxes, fish-

ing baskets or creels, finished or unfinished, not specially provided for, except fishing lines, fishing nets, and seines, 45 per centum ad valorem [ *Provided*, That any prohibition of the importation of feathers in this Act shall not be construed as applying to artificial flies used for fishing, or to feathers used for the manufacture of such flies ] .

