

indicated to the Committee, "Perhaps the best barometer of declining biodiversity is the extinction of species."⁴⁶ It is one of the only indicators available to us. Therefore legislation for the protection of individual species and their habitat is an important method of protecting biodiversity.

The United States has had legislation in place to protect endangered species and their habitats since 1973. The *Endangered Species Act* has been strengthened several times over the years, and although its critics have charged that the Act has been used unreasonably by environmentalists to stall or impede development, it is seen by others as an essential tool for the protection of species that may be the "canaries in the coal mines" of the natural environment. The Act has as its objective the conservation of the habitats upon which endangered species depend, and its protections are extended to all members of the plant and animal kingdom. Under the Act, endangered or threatened species and their "critical habitat" are identified, and penalties are imposed for the "taking" of listed species. Federal actions which would adversely modify critical habitat are prohibited under the Act.

Walter Reid, although he was of the opinion that the U.S. would not need legislation to enable it to sign and ratify the *Convention on Biological Diversity*, identified several gaps in the current American legislative framework. These were areas that he suggested might be considered by the American government as subjects of implementing legislation under the *Convention on Biological Diversity*, after any decision is made by the new administration to sign it. These gaps included legislation which would require that biodiversity be inventoried and monitored, legislation to sort out potential intellectual property conflicts which may develop as a result of the ratification of the Convention, legislation to remove subsidies which encourage the destruction of biodiversity, and legislation to prevent negative impacts on biodiversity.

The convention suggests that appropriate economic incentives should be adopted for biodiversity conservation. I'm sure that environmental groups in the United States may construe this to mean that some of the subsidies we have that currently promote the destruction of biodiversity possibly should be removed. There might be legislation in that area.⁴⁷

There is already a legislative initiative underway in the American legislature, the proposed biological diversity bill, which would fill some of these gaps.

This Committee is of the view that these areas might also be considered as possible subjects of legislative initiatives in Canada, as part of Canada's National Biodiversity Strategy. As this Committee stated in its March 1992 report called *Environment and the Constitution*, Canada's constitutional framework is such that the area of biodiversity conservation involves the overlapping jurisdictions of several levels of government.⁴⁸ Indeed, the threats to biodiversity, as well as to species and their habitats and ecosystems, are so complex and interrelated, that the members of the Committee are of the view that to be successful, any legislative initiative in this area must fully involve all levels of government. Therefore, the members wish to stress the importance of full consultation with other levels of government, as well as other interested parties, in the development of any such legislation. The Committee would suggest that the task of developing legislative strategies to protect biological diversity might be assigned to the Canadian Council of Ministers of the Environment, but only to the extent that all provinces and territories will be reached through this forum.

⁴⁶ Ibid., p. 29.

⁴⁷ Ibid., p. 64.

⁴⁸ Report of the Standing Committee on Environment, *Environment and the Constitution*, March 1992.