NATIONAL PARKS AND WILDLIFE ACT AMENDMENT BILL 1974

House of Assembly, 21 November 1974, page 2184

Second reading

**The Hon. G. R. BROOMHILL (Minister of Environment and Conservation) obtained** leave and introduced a Bill for an Act to amend the National Parks and Wildlife Act, 1972. Read a first time.

The Hon. G. R. BROOMHILL: I move:

*That this Bill be now read a second time.*

Over the past 2½ years, since the National Parks and Wildlife Act, 1972, was passed by Parliament, many lessons have been learned in the fields of conservation and environmental protection. The Act, which represented the first move to rationalise fauna and flora protection in this State, brought together for the first time in a single piece of legislation the many provisions which formerly existed in a number of separate Statutes. Many of the conservation measures which have been in operation in South Australia for a number of years are only now being adopted by other States, and I think it is true to say that South Australia leads the field in the matter of conservation legislation.

Experience over the past 21 years has shown that certain provisions of the Act need extending or modifying to ensure that the original intention of the legislation is being achieved. In other areas, experience has shown that there can be an easing of certain requirements of the Act, particularly in relation to the keeping and sale of a number of species of birds of avicultural interest without any loss in the effectiveness of the legislation. The Bill also includes a new Part dealing with the control of hunting which members will recall previously failed to pass the last session of Parliament. The hunting provisions of this Bill should not be confused with proposed amendments to firearms legislation which are still under consideration. These provisions relate purely to the hunting of animals for its effective control through a permit system, with the provisions that revenue derived from this source will be channelled back into wild life conservation.

Members, particularly those who represent country districts, will be aware of the problems which are being caused to landowners by unauthorised hunters. Stories of damage to troughs, tanks, windmills and other property, of gates left open and of stock being harassed or even killed are all too common. This Bill expands the private land provisions of the Act to give the landowner further protection from the depredations of the careless shooter or frustrated hunter prepared to shoot anything in sight. At this time it had been hoped to introduce amendments to Part IV of the principal Act dealing with the conservation of native plants and wildflowers. However, many difficulties have been encountered in drafting suitable measures to afford the necessary protection to native vegetation, and further work will be necessary before these matters can be introduced. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 to 4 are self-explanatory. Clause 4 amends a number of definitions in the principal Act, and the definition of protected animal is extended to include migratory animals which occasionally come to Australia. New definitions of “threatened species” and “hunting” are also included. Clause 5 provides additional measures in relation to the protection of the natural values of land which is compulsorily acquired under the principal Act. Where a notice of intention to acquire land has been issued, the Minister may instruct wardens to protect the land from damage in the interim period before acquisition is completed. This provision has been included because of threats which have been made that natural vegetation will be destroyed if any move is made by the department to acquire certain lands for national park purposes.

Clause 6 provides for moneys derived from any sale of animals and birds that the Minister is authorised to make in pursuance of powers conferred by the principal Act to be paid into the Wildlife Conservation Fund. A similar provision is included for revenue derived from hunting permits to be paid into the fund for the conservation of wild life and of land for wild life habitat, or for research into problems relating to the conservation of wild life. Clause 7 provides for the appointment of a Secretary to the National Parks and Wildlife Advisory Council. Clause 8 amends the powers of a warden to include entry into places where prohibited animals are kept. This clause empowers a warden to take assistance with him when exercising the powers conferred by the principal Act.

Clause 9 extends the powers of a warden to confiscate objects that have been used in the execution of offences under the principal Act. Where a living animal is seized, a warden is empowered to release it from captivity. This provision is necessary to ensure that in the event of freshly trapped birds and animals being detected they can speedily and safely be returned to the wild without the risk which is inherent in the subsequent release of aviary-dependent birds. Clauses 10 and 11 make minor amendments to the provisions relating to sanctuaries to provide better protection to the landowner whose property constitutes the sanctuary. Clause 12 provides for an increase in penalty for taking a protected animal of a rare or threatened species to $1 000 or imprisonment for six months.

Clause 13 amends the provision relating to an open season to provide that the open season does not apply within a sanctuary. Clause 14 limits the power to take a poisonous reptile to a power to kill it if it has attacked, is attacking, or is likely to attack any person. In all other respects, poisonous reptiles will now be treated as protected animals. This measure has proved necessary because of the extensive trading in these animals for profit to the detriment of the status of these animals in the wild. Clause 15 inserts new provisions into the section of the principal Act dealing with the keeping and sale of protected animals. The effect of these provisions is to require a person who asserts that he is protected by section 92 of the Constitution to assume the burden of proving that the act with which he is charged was done in the course of interstate trade or commerce.

Clause 16 amends the provisions of section 59 of the principal Act in an attempt to overcome objections that might be raised to them under section 92 of the Constitution. Clause 17 expands the provisions of the principal Act relating to the illegal possession of protected animals to cover the case where an animal is taken in contravention of the law of some other State or Territory of the Commonwealth. Clause 18 expands the provisions relating to the use of poison to ensure that due precautions are exercised to avoid endangering protected animals. Clause 19 makes minor amendments to the provisions relating to illegal devices. Clause 20 expands the provisions relating to the molestation of animals.

Clause 21 inserts a new Part dealing with hunting. This new Part comprises the provisions formerly included in a Bill that failed to pass in the previous session of Parliament. In addition, provisions relating to hunting on private land are included in the new Part. Clause 22 grants a power to the Minister to revoke a permit on the ground that it is in the interests of conservation to do so. A similar provision formerly existed in the repealed Fauna Conservation Act. An example of the need for such a provision would be a situation where a permit to take protected animals (for example, kangaroos) had been granted, and where because of altered or unusual climatic conditions it was no longer desirable that these animals be taken. Clause 23 expands the provisions of the principal Act relating to contravention or failure to comply with a condition of a permit so that the holder of the permit is vicariously liable for the action of a servant or agent.

Clause 24 removes any doubt that may arise in relation to the intent of section 74 of the principal Act in relation to additional penalties. Clause 25 inserts new evidentiary provisions reversing the onus of proof in respect of allegations that a person is a warden, that an animal is a protected species, or that an animal is of a specified species. Clause 26 inserts a new provision enabling the Governor to prescribe differential fees for permits. Clause 27 includes new schedules of rare species, threatened species and unprotected species.

Mr. ARNOLD secured the adjournment of the debate.