**NATIONAL PARKS AND WILD LIFE BILL 1972**

**Legislative Assembly, 16 March 1972, pages 3989-94**

Second reading

The Hon. G. R. BROOMHILL (Minister of Environment and Conservation) obtained leave and introduced a Bill for an Act to provide for the establishment and management of reserves for public benefit and enjoyment; to provide for the conservation of wild life in a natural environment; to repeal the Fauna and Flora Reserve Act, 1919-1940, the Fauna Conservation Act, 1964-1965, the National Parks Act, 1966, the National Pleasure Resorts Act, 1914-1960, and the Native Plants Protection Act, 1939; to amend the Lands for Public Purposes Acquisition Act, 1914-1966, and the Statute Law Revision Act, 1935; and for other purposes. Read a first time.

The Hon. G. R. BROOMHILL: I move: That this Bill be now read a second time. The National Parks and Wild Life Bill brings together in a single Act the various provisions relating to the conservation of flora and fauna and the management of reserves in South Australia which are currently spread amongst a number of Acts. Those Acts which will be repealed are the National Parks Act, 1966; the National Pleasure Resorts Act, 1914-1960; the Fauna and Flora Reserves Act, 1919-1940; the Fauna Conservation Act, 1964-1965; and the Native Plants Protection Act, 1939. In addition, the provisions of these Acts are generally updated in line with current conservation thinking.

Similar steps have been taken in New South Wales and Tasmania, and the Bill continues the policy of rationalization of environmental protection envisaged by the creation of the Department of Environment and Conservation. The extent of the Government’s responsibility for conservation is demonstrated by the inclusion of 154 reserves, totalling more than 8,642,700 acres in the schedules. The magnitude of this responsibility clearly explains the reason why steps towards improved management for public enjoyment and conservation of wild life are necessary.

The Government wishes to acknowledge the past efforts of the National Parks Com­mission and the Fauna and Flora Board of South Australia in the field of conservation in South Australia. The past and present members of these bodies have acted in conscientious devotion to duty. The people of this State owe them a considerable debt of gratitude for the work that they have done in promoting the cause of conservation. Significant changes have been made to the interpretation of words and phrases defined in the Bill that have generally improved and tightened up the definitions used in the various Acts at present.

The Bill also provides for the powers, rights, duties and properties of the present National Parks Commission and Fauna and Flora Board of South Australia to be vested in the Minister. The transfer of the present staff of the National Parks Commission and the Fauna and Flora Board to the Department of Environment and Conservation, and preservation of accrued rights of leave and superannuation of these officers and employees, are also provided for.

Other machinery provisions relating to continuance of proceedings, delegation of powers, and submission of a report are included. In addition, a Wild Life Conservation Fund is established for the purposes of donations or grants and other moneys provided by Parliament for the purposes of wild life conservation. The Bill establishes a National Parks and Wild Life Advisory Council to investigate and advise the Minister on any matter referred by him to the council, as well as referring any other matters affecting the administration of the Act to the Minister for consideration.

The council will consist of 17 members, comprising two ex efficio member, the per­manent head and the Director, as well as 15 persons qualified by knowledge and experience to be members. It is intended that there should be a balance between professionally qualified persons and interested amateurs. The permanent head and the Director will not be eligible for election as Chairman. Other machinery provisions relating to the terms and conditions of office, conduct of business, etc., are also provided in the Bill.

The Bill provides for the appointment of officers of the department and other persons as wardens. The powers and duties of a warden are similar in extent to those provided in the present Fauna Conservation Act, with some tightening of these provisions. It is expected that persons other than officers of the department who are appointed as wardens will work in close co-operation with the department. It is expected that wardens may be appointed either generally throughout the State for fauna or flora purposes or for specific reserves or areas in the State.

A major change is made in the nomenclature of the various reserves, and four cate­gories of reserve have been provided. These are national parks, conservation parks, game Reserves, and recreation parks. The current national parks, national pleasure resorts, fauna conservation reserves and other reserves, including Flinders Chase, have been rescheduled into the four categories above, and are included in the schedules to this Bill.

The category of national park has been given only to those outstanding and unique areas of scenery, or fauna and flora which have national significance. Only eight areas

have been considered to qualify in these terms. In some cases, such as the Flinders Ranges .National Park, it has been possible to amalgamate different types of reserve under the present Acts to form a single rational unit. While all national parks will be large, size alone is not the major requirement.

Recreation parks have been designated for those areas which have primarily been used for active and organized recreation by the public. Included in this category are the present Belair and Para Wirra national parks as well as a number of the present national pleasure resorts. The continuance of game reserves to provide for the production and management of game for regulated hunting is included in this Bill . One additional game reserve (Buck’s Lake) is provided in the schedule, in addition to rationalization of existing game reserve boundaries.

The remaining category of conservation park has been used for a wide variety of reserves where the primary purpose of the reserve is to conserve a certain feature of natural, scientific or historic interest. This category will include the greater number of reserves, which may vary in size from a few acres to thousands of square miles. The objectives of management are set out in detail in the Bill. A major provision is the inclusion of management plans and the procedure for their adoption and implementation. Provision is also made for the creation of zones for specific purpose to be included in management plans.

Various miscellaneous provisions relating to the management and constitution of reserves are also provided. These provisions include the necessary approvals for constitution, the creation of prohibited areas for conservation or protection purposes, and provisions relating to prospecting and mining of reserves. Sanctuaries, a further category of land for the conservation of native animals or plants, are restricted to private land and other Crown lands not under the control of the Minister. Protection for the native animals to be found on sanctuaries is also included in the Bill.

Similar provisions to the present Native Plants Protection Act are included in the Bill. Provision is made for any specific native plant to be protected in any part or the whole of the State for such period as is specified. Penalties are provided for unlawful taking and sale of protected plants. Provision for licences to take protected plants is also included. The necessary machinery to enforce the conservation of native plants is included elsewhere in the Bill. All mammals, birds and reptiles native to Australia, with the exception of those unprotected species mentioned in the schedules, are declared protected animals.

The provisions are similar in many respects to the Fauna Conservation Act, 1964-1965, but include a general updating and tightening of these provisions where necessary. Particular reference is made to the protection of rare species, and heavy penalties are pro­vided for illegal dealing in these species. The restrictions on the taking of protected animals are set out in detail. Declaration of open season and the limitation of the taking of game are also included. Machinery provisions are included for the granting of permits to take protected animals. The control of commercial kangaroo shooting and the control of chillers is also contemplated through regulations and the conditions under which permits to destroy kangaroos will be given.

Rare species are included in the schedules. Two deletions have been made to this schedule to exclude two species erroneously included in the present Fauna Conservation Act. Provision is made for the inclusion of requirements to ring or identify rare species for which permits to keep are granted. Prohibited species will include such animals as the Queensland cane toad which would pose a threat to the natural environment if they escaped or were released. Because some of these animals may be required for scientific study and for teaching purposes, provision is made for the granting of permits to keep these species.

Controlled species may be declared by proclamation. These species will include any animals which are not indigenous to South Australia. Penalties are provided for the unlawful release of these species from captivity to prevent the spread of feral animals, particularly domestic cats, which are considered to be the greatest single threat to the smaller wild life of Australia.

The restrictions on the keeping or selling of protected animals are provided. While these provisions are essentially similar to those of the present Fauna Conservation Act, this Bill provides for greater control of illegal keeping and selling, which has grown to considerable proportions in recent years. Control is also provided for export and import of protected animals. Penalties relating to the illegal possession of animals have been made more realistic in view of the returns from illegal trafficking in protected fauna.

The provisions in regard to royalty on animals, carcasses or skins are similar to those of the Fauna Conservation Act, 1964-1965. These provisions also relate to demand for and recovery of royalty where due. A new requirement in regard to unlawful entry on land is that permission will be required in writing from the owner. Greater control of the use of poison is also provided. Other restrictions on the use of certain devices and traps for the taking of animals are also included.

The Bill includes normal machinery provisions regarding application for and the issue of licences and permits, as well as requirements included in permits. Other machinery provisions relating to evidentiary proceeding powers of court are also provided. The powers to make regulations are similar to those provided in the various Acts being repealed by this Bill. An important omission from the Bill is the provisions relating to firearms formerly included in the Fauna Conservation Act, 1964-1965. These will be included in amendments to the Firearms Act which it is felt is more appropriate than inclusion in the present Bill.

Clauses 1 to 4 are self-explanatory. Clause 5 relates to interpretation of the Act. “Animal” is defined in this manner to provide for any possible declaration of a protected animal that may be required in the future. “Carcass” has been considerably extended in its scope to include the whole or any part of the body of an animal. “Crown lands” uses the same definition as the Crown Lands Act. “Day and device” are similar to the definition in the Fauna Conservation Act, 1964-1965. “Egg” has been extended to include any part of an egg. “Firearm” is similar to the definition in the present Firearms Act. “Land” is similar to the definition in the Fauna Conservation Act, 1964-1965. “Native plant” and “plant” have been defined to include the possibility of protecting vegetation other than the higher plants. “Private lands” is an improvement over the present Fauna Conservation Act, 1964-1965. “Protected animals” enables all animals that are mammals, birds and reptiles, with the exception of those species mentioned in the ninth schedule, to be protected and also enables other species of animals to be protected where necessary by declaration. “Protected wild flower” and “Protected native plant” take an alternative approach to protected animal above. In this case specific species of plants are protected while the balance of species remains unprotected. “Rare species” gives added pro­tection to certain species of protected animals. “Sell” is similar in extent to the provisions of the Fisheries Act, 1971. “Take” has been used in two different contexts: (a) in relation to animals, and (b) in relation to native plants or wild flowers. “Wild life” has been used as a collective term for both native plants and animals. Other definitions are self- explanatory and relate to particular terms used in this Bill.

Clause 6 provides for the constitution of- the Minister as a corporation sole. Clause .7 abolishes the National Parks. Commission and transfers and vests in the Minister the rights,' powers, duties and liabilities of the commission as well as providing for the continuance of any proceedings commenced before the passage of this Act. Clause 8 abolishes the Fauna and Flora Board of South Australia and is similar in extent to clause 7. Clause 9 provides for the acquisition of land in accord­ance with the Land Acquisition Act. Clause 8 provides for the establishment of a Wild Life Conservation Fund, comprising moneys derived from donations or grants and any moneys provided specifically by Parliament for the purpose of conserving wild life and the natural habitat of wild life as well as research into problems relating to the conservation of wild life.

Clause 11 provides the normal powers of delegation to the Minister, the permanent head and the Director. Clause 12 relates to the normal requirement for report to Parliament. Clause 13 provides for appointments to the Department of Environment and Conservation as well as protecting the rights of leave, superannuation, etc., of the current employees of the National Parks Commission and the Fauna and Flora Board of South Australia. Clause 14 establishes a National Parks and Wild Life Advisory Council composed of 17 members, two of whom are ex officio members, the balance being persons qualified by virtue of their knowledge and experience to be members. It is intended that at least eight of the members will have professional qualifications or experience with, however, a balance being provided by the remaining members as interested amateurs.

Clauses 15, 16 and 17 are normal provisions relating to the terms and conditions of office, to conduct of business and allowances and expenses of members. Clause 18 sets out the functions of the council. Clause 19 provides for the appointment of wardens for specific terms and for specific areas in the State. It also provides for ex officio appointments of police officers as wardens. Clause 20 relates to the issue of identity cards to wardens. Clause 21 sets out the powers of wardens, which are similar to the powers provided in the previous Fauna Conservation Act. These powers include power to request name and address, to request a person to leave a reserve, to enter and search for evidence, and to search and seize any such evidence as well as to require a person to produce any permit issued under the Act. The clause also details the duties of a warden, where he proposes to enter any land in accordance with the powers mentioned above.

Clause 22 provides for the confiscation of firearms and devices which may be used to commit an offence against the Act. This clause also provides for the forfeiture of such devices to the Crown or for their return to their owner. A similar provision is also included in this clause in regard to seizure of animals and plants taken in contravention of the Act. The Minister is also given power to dispose of devices, etc., forfeited to the Crown under this clause. Clause 23 makes it an offence to hinder, assault or use abusive language to a warden exercising his functions to the Act. Clause 24 provides for powers of arrest and for the conveyance of arrested persons to the nearest police station.

Clauses 23 and 24 are similar in extent to the present Fauna Conservation Act. Clause 25 relates to a person who falsely pretends to be a warden. Clause 26 deals with the constitution of national parks by Statute. Under this clause certain areas currently dedicated under the National Parks Act, the National Pleasure Resorts Act, the Fauna and Flora Reserves Act and the Fauna Conserva­tion Act, which are considered to be of national significance with respect to the wild life and natural features of those lands, are constituted as national parks. These areas are specified in the third schedule. This clause provides similar security of tenure in regard to the resumption of land constituting a national park to that provided in the National Parks Act, 1966.

Clause 27 relates to the constitution of national parks by proclamation. This clause provides for the constitution of additional areas as national parks where these areas are of national significance by reason of wild life and natural features of these areas. Similar provisions to clause 26 are included in this clause.

Clause 28 provides for the constitution of conservation parks by Statute. Similar provisions to clause 26 are included in this clause in regard to lands at present reserved under the abovementioned Acts, which it is considered should be protected for the purposes of conserving the wild life, or natural or historic features of these lands. Clause 29 provides similar provisions in regard to the constitution of conservation parks by proclamation.

Clause 30 provides for the constitution of game reserves by Statute. Areas which are currently dedicated under the Fauna Conserva­tion Act, and in some cases under the National Parks Act, have been constituted as game reserves for the protection and management of game. Clause 31 relates to the constitution of game reserves by proclamation and provides similar provisions for subsequent constitution of game reserves to those provided in clause 30. Clause 32 provides for the constitution of recreation parks by Statute of those areas which it is considered should be set apart and managed for public recreation and enjoyment and which are currently reserved under the National Pleasure Resorts Act and the National Parks Act.

Clause 33 provides for constitution of recreation parks by proclamation in similar terms to clause 32, but provides for special conditions in regard to Belair Recreation Park and Para Wirra Recreation Park. Clause 34 provides that the Minister shall have control and administration of all reserves and also provides for the Minister to grant licences for any reserve for purposes of rights of entry, use or occupation. Clause 35 places all reserves under the management of the Director, subject to the direction of the Minister and permanent head.

Clause 36 sets out in detail the objectives of management which the Minister, permanent head, and Director should have in regard to managing reserves. Clause 37 provides a requirement for the preparation of management plans for all reserves. This clause sets out in detail the procedure for the preparation of and acceptance of management plans. Clause 38 provides for the creation of zones within reserves. Clause 39 relates to the implemen­tation of management plans. Clause 40 pro­vides for the approval necessary to constitute to alter boundaries of reserves. Clause 41 provides for the creation of prohibited areas where it is in the interest of protecting human life or conserving native plants or animals.

Clause 42 deals with rights of prospecting and mining in reserves and includes similar provisions to those already incorporated in the National Parks Act, 1966. Clause 43 provides for the establishment of sanctuaries on Crown lands, with the consent of the Minister, or private lands where the owner or occupier has consented to such a declaration. Clause 44 relates to the protection of animals within a sanctuary. The provisions for the conservation of native plants and wild flowers are generally similar in extent to the provisions of the Native Plants Protection Act.

Clause 45 provides for the application of this Part to the State generally, or a specific Part of the State or to specific species of wild flowers or native plants. Clause 46 makes it an offence to interfere with native plants and wild flowers on lands of particular classes. Clause 47 relates to the sale of protected wild flowers and native plants and provides for certain conditions under which native plants and wild flowers may be taken. Clause 48 enables the Minister to grant permits for the purpose of taking wild flowers or protected native plants. Clause 49 provides for the application of this Part to the whole or any part of the State to specified animals. Clause 50 makes it an offence to take protected animals.

Clause 51 provides for the Government to declare an open season and includes the provisions to make a proclamation for certain periods, to certain parts of the State and to certain species. This clause also provides for the exemption of a national park, conservation park, or recreation park from this declaration and, where specified, the exemption of game reserves also from this declaration. Clause 52 provides for permits to take protected animals for purposes such as scientific research, banding and marking, the destruction of animals causing damage, and for purposes other than for sale. The clause also provides for conditions to be included in any permit granted under this clause.

Clause 53 provides for the exemption of the taking of Australian magpies which have attacked any person. Clause 54 deals with animals of rare species which may not be kept without a permit being granted for this purpose. This clause provides heavy penalties for having possession of rare animals without a permit and also includes a provision for the inclusion of conditions in such a permit. Clause 55 deals with prohibited species which a person may not have in his possession except when a permit is granted by the Minister. Clause 56 deals with controlled species which a person may not release from captivity without a permit having been granted by the Minister. Clause 57 relates to the keeping and sale of protected animals and provides that a person may not keep more than one protected animal unless he holds a permit. It also provides for permits to be granted to sell protected animals. Clause 58 deals with the export and import of protected animals from the State. Clause 59 provides penalties for illegal possession of animals.

Clauses 57, 58 and 59 are similar in extent to the Fauna Conservation Act, 1964-1965, but provide a general tightening up and control of these activities. Clauses 60, 61 and 62 are similar in extent to the Fauna Conservation Act, 1964-1965, and provide for the declaration of royalty demand and recovering of royalty by civil action. Clause 63 relates to unlawful entering of private land and is similar in extent to the Fauna Conservation Act, 1964-1965. Clause 64 relates to the use of poison and requires that a person exercise reasonable precautions to avoid endangering protected animals; it enables persons using poison in good faith for destroying vermin to do so. Clause 65 provides for restriction or prohibition on the use of certain devices for the taking of animals. Clause 66 provides that a warden may dismantle and remove animal traps and for the disposal of these devices. Clause 67 relates to dogs injuring or molesting protected animals. Clause 68 relates to the issue of permits and is similar in extent to the Fauna Conservation Act, 1964-1965. Clause 69 deals with the obligation of a person to carry a permit. Clauses 70, 71 and 72 relating to false or misleading statements and offences against the provisions of permits are similar in extent to the Fauna Conservation Act, 1964-1965, and clause 73 provides for additional penalties in the case where more than one protected animal was involved in the commission of an offence.

Clause 74 relating to evidentiary proceedings is similar in extent to the Fauna Conservation Act, 1964-1965. Clauses 75 and 76 relate to the summary disposal of proceedings and the powers of court. Clause 77 provides for the normal financial provision. Clause 78 provides that the Minister may seek compensation for any damage caused to a reserve. Clause 79 provides for the exemption of the Minister, officers of the department or wardens from tortious liability. Clause 80 provides for the powers of the Governor to make regulations for the purposes and objectives of the Act and is similar in extent to the powers provided in the National Parks Act, National Pleasure Resorts Act, Fauna Conservation Act, the Fauna and Flora Reserves Act and the Native Plants Protection Act. Several changes have been made to the schedules. In particular the wedgetailed eagle and several other species have been removed from the ninth schedule of unprotected species. This has been done in view of the recent information which has become available on the ecology of these species. The wedgetailed eagle will therefore become protected right throughout the State.

The Hon. D. N. BROOKMAN secured the adjournment of the debate.