**NATIVE VEGETATION MANAGEMENT BILL 1985**

**Legislative Assembly, 20 August 1985, pages 381-2**

Second reading

**The Hon. D.J. HOPGOOD (Minister for Environment and Planning**) obtained leave and introduced a Bill for an Act to control the clearance, and to facilitate the management, of native vegetation; and for other purposes. Read a first time.

The Hon. D.J. HOPGOOD: I move: That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in Hansard without my reading it. Leave granted.

Explanation of Bill

The aim of this Bill is to separate the existing vegetation clearance controls from the planning system, provide for the management of areas retained from clearance, and provide for financial assistance to landholders refused approval to clear native vegetation. Controls on the clearance of native vegetation in the agricultural regions of the State were introduced by regulation under the Planning Act, 1982, on 12 May 1983. There has been a widespread, bipartisan acceptance of the need for controls (over 80 per cent of the native vegetation in the agricultural regions having now been cleared), but some aspects of the legislative and administrative arrangements, and the absence of any readily available financial assistance for those disadvantaged, have produced a divisive controversy, culminating in late 1984 in a successful challenge to the controls before the High Court of Australia.

In the wake of the High Court judgment the controls have been maintained by a suspension of section 56 (1) (a) and (b) of the Planning Act, but the suspension will expire on 31 October 1985. In view of this, a Select Committee of the Legislative Council was set up on 6 December 1984, to take evidence and report on the legislative, administrative and compensation aspects of the controls. More recently, officers of the United Farmers and Stockowners of S.A. Inc. and the Department of Environment and Planning have negotiated an agreement, the principles of which have been accepted by the Government and embodied in this Bill.

The Bill provides for control of clearance in a manner similar to that already existing, but decision making on all applications will become the responsibility of a five-member Native Vegetation Authority. The authority will comprise one nominee from the United Farmers and Stockowners of S.A. Inc.; one from the Nature Conservation Society of South Australia; two Ministerial nominees with one having expertise in conservation and one in rural matters; and a Chairman, being the Chairman of the South Australian Planning Commission. The authority will have exclusive responsibility to make decisions on all applications, but with the power to delegate. Landholders refused approval to clear native vegetation will become eligible for financial assistance, as long as they agree to enter into a heritage agreement providing for the on-going management and conservation of the vegetation retained. The assistance will take two forms. First, payment will be made to cover any decline in land value as a result of the controls. Secondly, assistance will be made available to landholders to fence and manage areas retained from clearance. To minimise the cost to the State in any given year, most of the payments will be made as annual instalments over an average period of ten years. Interest will be paid with the instalments to offset inflationary effects over time. Similarly, the cost of fencing will be spread over a period of time, with areas receiving attention on an assigned priority basis.

Financial assistance will only be made available where a landholder is required to retain native vegetation over and above an area equivalent to 12½ per cent of the holding, and the land in question must have been acquired prior to 12 May 1983. Any land not capable of management for permanent agriculture if cleared will also be excluded from payments. Highly significant areas of land refused clearance approval may be considered for acquisition by the National Parks and Wildlife Service.

The Bill also provides for the establishment of a Native Vegetation Advisory Committee of eight members. The committee will advise the Minister on policy matters and will have a membership reflecting rural, environmental, local government and hydrological interests. One of the members will also be a member of the Native Vegetation Authority. The Bill is the outcome of much detailed discussion and negotiation between a range of interested parties and it is gratifying that a consensus has been reached. At the same time, a number of the provisions of the Bill are novel, and there is a need to monitor closely their effectiveness once the Act is in force. To this end I have (whilst not including it as a formal provision of the Bill) agreed to a review of the first 12 months operations of the Act carried out by a working party made up of officers from the United Farmers and Stockowners and the Department of Environment and Planning.

With the introduction of this Bill, I am confident that a new and favourable climate has been established for native vegetation retention and management throughout the agricultural regions of the State. I commend the Bill to the House.

Clauses 1 and 2 are formal. Clause 3 provides definitions of terms used in the Bill. Clause 4 gives the Governor power to exclude parts of the State from the operation of the Act by regulation. Clause 5 provides that the Crown will be bound. Clause 6 provides for the establishment of the Native Vegetation Authority. Clause 7 provides for membership of the authority. Clause 8 provides for proceedings at meetings of the authority.

Clause 9 preserves the validity of acts of the authority and protects members from personal liability. Clause 10 prevents a member from participating in a decision of the authority if he has an interest in the matter under consideration. Clause 11 provides for remuneration and expenses of members. Clause 12 sets out the authority’s role in advising the Minister. Clause 13 is a delegation provision. Clause 14 provides for the appointment of a secretary and other staff.

Clause 15 provides for the preparation and tabling before Parliament of an annual report. Clause 16 establishes the Native Vegetation Advisory Committee and provides for its membership. Clause 17 sets out the functions of the committee. Clause 18 makes available to the committee the services of Government departments. Clause 19 is the principal offence provision in the Bill. The maximum penalty that may be imposed is $10 000 or, where the number of hectares on which an offence occurs is greater than 10, the maximum penalty increases in proportion to the area involved.

Clause 20 sets out circumstances in which native vegetation may be cleared. Subclause (2) provides that only the owner of land on which the vegetation stands may apply for clearance. Subclause (4) prohibits clearance of native vegetation from land that is subject to a heritage agreement unless the vegetation is cleared in accordance with the agreement. Clause 21 sets out a number of general provisions. The authority must, when considering an application for consent, have regard to the development plan. Conditions imposed on consent bind subsequent owners as well as the owner who obtained the consent. There will be no appeal from a decision of the authority. Clauses 22 to 25 set out enforcement provisions similar to those in the Planning Act, 1982. Clause 26 provides definitions of terms used in Part V.

Clause 27 sets out the basis on which landowners will be entitled to payments to compensate them for the reduction in the value of their land resulting from a decision of the authority. The owner must enter into a heritage agreement in the form in the second schedule or in any other form agreed with the Minister. Subclause (4) sets out circumstances in which payment will not be made. Subclause (5) provides for reduction in the amount payable if the land is owned by a number of co-owners some of whom acquired their interest in the land after 12 May 1985. Clause 28 provides the basis for assessing the amount to be paid. The formula in subclause (2) reduces the payment by a proportion that is equal to the proportion that 12.5 per cent of the holding bears to the land in respect of which payment is made. Clause 29 provides for assessment by the Valuer-General of the amount payable with a right of appeal to the Land and Valuation Court. An owner considering entering into a heritage agreement may request the Valuer-General to give him an estimate of the amount of the payment that he will receive. Clause 30 provides for the manner of payment and for the payment of interest. Clause 31 provides for inspection of land.

Clause 32 is a regulation-making power. The first schedule sets out transitional provisions. Clause 5 will enable a landowner who was refused planning approval to clear native vegetation under the Planning Act, 1982, to claim a payment under this Act. Alternatively he can apply for consent under this Act in respect of the vegetation to which the previous refusal related. The second schedule sets out the form of heritage agreement.

The Hon. D.C. WOTTON secured the adjournment of the debate.