WILD FLOWERS AND NATIVE PLANTS PROTECTION BILL.

SCHEDULE of Amendments referred to in Message of 30th November, 1926.

Page 3, clause 4. At end of subclause (2) *insert* "in contravention of this section "and the onus of proof to the contrary shall be upon the defendant"

Page 4 *Insert* new clauses 5B and 5C.

This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

W. S. MOWLE,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 2 *November*, 1926.

The LEGISLATIVE COUNCIL *has this day agreed to this Bill with Amendments.*

W. L. S. COOPER,
Clerk of the Parliaments.

Legislative Council Chamber,
Sydney, 30*th November*, 1926.

New South Wales.

ANNO SEPTIMO DECIMO

GEORGII V REGIS.

* *

Act No. , 1926.

An Act to provide for the protection of Wild Flowers and Native Plants; to amend the Local Government Act, 1919, the Government Railways Act, 1912, and certain other Acts; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Wild Flowers and Native Plants Protection Act, 1926." Short title and commencement.

(2)

NOTE.—The words to be *inserted* are printed in **black letter**.

(2) This Act shall come into operation on a date to be fixed by the Governor and notified in the Gazette.

2. In this Act, unless the context otherwise indicates or requires,— Definitions.

5 "Native plant" means any tree, shrub, fern, creeper, vine, palm, or plant which is indigenous to New South Wales, and includes any part thereof.

"Protected wild flower" or "Protected native 10 plant" means any wild flower or native plant which has been notified by the Governor to be a wild flower or a native plant protected under this Act.

"Pick," in relation to a protected wild flower or a 15 protected native plant means to gather, pluck, cut, pull up, destroy, take, dig up, remove, or injure the flower or plant, or any part thereof.

"Private land" includes land leased from the Crown, or which is in the course of alienation 20 by the Crown under any Act.

"Protected period" means the period for which a wild flower or native plant is notified as protected under this Act.

"Wild flower" means the flower of any native 25 plant.

3. (1) The Governor may notify by proclamation published in the Gazette that any wild flower or native plant specified in the proclamation is protected under this Act throughout the whole State or in any part 30 thereof specified in the proclamation. Notification of protection.

(2) Such protection may be for a limited or unlimited period, as may be specified in the proclamation.

(3) The Governor may revoke or amend such 35 proclamation at any time by a like proclamation.

(4) Notwithstanding the provisions of the Forestry Act, 1916, or any Act amending the same, the Forestry Commission shall not issue a license for the removal of any protected wild flower or native plant from any State 40 forest or timber reserve or Crown land to which any such proclamation applies during the period such wild flower

flower or native plant is protected under this Act; and any such license in existence at the date of the publication of such proclamation in the Gazette shall cease to be operative during the period of such protection.

4. (1) Any person who during the protected period picks a protected wild flower or protected native plant which is growing— Penalty for picking; conduct of prosecutions.

(a) on any Crown land or State forest; or

(b) on any public park or any land dedicated or reserved for a public purpose under the Crown Lands Consolidation Act, 1913, or any other Act; or

(c) on any private land the owner or lessee of which has not given his permission thereunto,

shall be guilty of an offence.

(2) In any prosecution under this section proof that such protected wild flower or protected native plant was found in the possession of the defendant during the protected period shall be prima facie evidence that the defendant picked such wild flower or native plant **in contravention of this section and the onus of proof to the contrary shall be upon the defendant.** Prima facie evidence.

(3) In any prosecution under this section it shall be a sufficient defence to prove that the matter charged as an offence was the result of accident.

5. Any person who sells or offers or exposes for sale any protected wild flower or protected native plant during the protected period shall be guilty of an offence. Selling forbidden.

It shall be a sufficient defence in any prosecution under this section to prove that the wild flower or native plant was grown upon private land and was picked with the consent of the owner or lessee of that land.

5A. The Minister may, in the prescribed form, and subject to any limitations as to locality and to any other conditions he may think proper, issue licenses authorising the holders thereof to pick the protected wild flowers or protected native plants specified therein for scientific purposes. Licenses to pick for scientific purposes. cf. s 7 of Birds and Animals Protection Act, 1918.

5B.

5B. Any authorised servant of any such council of a municipality or shire duly constituted under the Local Government Act, 1919, any member of the police force, any ranger or caretaker of any Crown land or State forest or public park or land dedicated or reserved for a public purpose under any Act, and (upon production of an authority purporting to be signed by any body of trustees or authority or Minister of the Crown having charge of any land or by any owner or lessee of private land or by the duly authorised officer of a shire or municipal council) any person holding such authority may require any person reasonably suspected of having offended against this Act to give his name and address, and to deliver up any protected wild flower or native plant in his possession. Suspected person to give name and address.

Any person who, when so required, refuses to give his name and address, or gives a false name and address, or refuses to deliver up such protected wild flower or native plant shall be guilty of an offence.

5C. The Minister may appoint honorary rangers to carry out the provisions of this Act; such honorary rangers shall have the powers conferred by section 5B of this Act on members of the police force. Honorary rangers.

6. Any person convicted of an offence against this Act shall be liable— Penalties.

(a) for a first offence to a penalty not exceeding five pounds;

(b) for a second offence to a penalty not exceeding ten pounds;

(c) for a third or subsequent offence to a penalty not exceeding twenty pounds.

7. (1) Notwithstanding anything contained in the Government Railways Act, 1912, it shall be lawful for the Railway Commissioners for New South Wales to refuse to convey or allow to be conveyed on any Government railway any protected wild flower or protected native plant. Power of Railway Commissioners to refuse to carry any protected wild flower or protected native plant.

(2) The Railway Commissioners for New South Wales shall take measures to prevent any person selling or exposing for sale on railway premises any protected wild flower or protected native plant.

(3)

(3) Regulations may be made under the Government Railways Act, 1912, to give effect to this section, and to regulate or prohibit the carriage of protected wild flowers or protected native plants upon the Government railways. Such regulations may provide penalties not exceeding twenty pounds for any breach thereof. Regulations.

8. (1) Section four hundred and seventy-nine of the Local Government Act, 1919, is repealed. Repeal of s. 479 of the L.G. Act.

(2) Paragraph (p) of section five hundred and thirteen of the Local Government Act, 1919, is hereby repealed. Repeal of s. 513 (p), L.G. Act.

(3) Section twenty-seven of the Local Government (Validation and Amendment) Act, 1922, is hereby repealed. Repeal of Act 1922 No. 29, s. 27.

Sydney: Alfred James Kent, Government Printer—1926.

[7*d*.]

41—B

1926.

Legislative Council.

Wild Flowers and Native Plants Protection Bill, 1926.

EXPLANATORY MEMORANDUM.

THIS Bill proposes to make provision for the regulation and control of the picking of wild flowers and native plants. The Bill contains provision that the Governor may notify any wild flower or native plant to be protected throughtout the whole State or in any part of the State specified in the Governor's proclamation.

Protection may be for a limited or unlimited period.

Any person picking a protected wild flower or native plant during its period of protection, unless on private land the owner of which has given his permission to the picking will be guilty of an offence.

Any person selling or offering for sale any protected flower or plant during the protected period will be guilty of an offence, unless such flower or plant was grown on private land and was picked with the owner's or lessee's consent.

The Minister may issue licenses authorising the holders to pick the protected wild flowers and plants specified on the license for scientific purposes.

The Railway Commissioners may refuse to allow any protected flowers or plants to be conveyed on the railways, and shall take measures to prevent their sale on railway premises.

Penalties for offences against this Act are prescribed.

†925 41—

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W. S. MOWLE,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 2 *November*, 1926.

New South Wales.

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1. (1) This Act may be cited as the "Wild Flowers and Native Plants Protection Act, 1926." Short title and commencement.

(2) This Act shall come into operation on a date to be fixed by the Governor and notified in the Gazette.

2. In this Act, unless the context otherwise indicates or requires,— Definitions.

"Native plant" means any tree, shrub, fern, creeper, vine, palm, or plant which is indigenous to New South Wales, and includes any part thereof.

"Protected wild flower" or "Protected native plant" means any wild flower or native plant which has been notified by the Governor to be a wild flower or a native plant protected under this Act.

"Pick," in relation to a protected wild flower or a protected native plant means to gather, pluck, cut, pull up, destroy, take, dig up, remove, or injure the flower or plant, or any part thereof.

"Private land" includes land leased from the Crown, or which is in the course of alienation by the Crown under any Act.

"Protected period" means the period for which a wild flower or native plant is notified as protected under this Act.

"Wild flower" means the flower of any native plant.

3. (1) The Governor may notify by proclamation published in the Gazette that any wild flower or native plant specified in the proclamation is protected under this Act throughout the whole State or in any part thereof specified in the proclamation. Notification of protection.

(2) Such protection may be for a limited or unlimited period, as may be specified in the proclamation.

(3) The Governor may revoke or amend such proclamation at any time by a like proclamation.

(4) Notwithstanding the provisions of the Forestry Act, 1916, or any Act amending the same, the Forestry Commission shall not issue a license for the removal of any protected wild flower or native plant from any State forest or timber reserve or Crown land to which any such proclamation applies during the period such wild flower

flower or native plant is protected under this Act; and any such license in existence at the date of the publication of such proclamation in the Gazette shall cease to be operative during the period of such protection.

4. (1) Any person who during the protected period picks a protected wild flower or protected native plant which is growing— Penalty for picking; conduct of prosecutions.

(a) on any Crown land or State forest; or

(b) on any public park or any land dedicated or reserved for a public purpose under the Crown Lands Consolidation Act, 1913, or any other Act; or

(c) on any private land the owner or lessee of which has not given his permission thereunto,

shall be guilty of an offence.

(2) In any prosecution under this section proof that such protected wild flower or protected native plant was found in the possession of the defendant during the protected period shall be prima facie evidence that the defendant picked such wild flower or native plant. Prima facie evidence.

(3) In any prosecution under this section it shall be a sufficient defence to prove that the matter charged as an offence was the result of accident.

5. Any person who sells or offers or exposes for sale any protected wild flower or protected native plant during the protected period shall be guilty of an offence. Selling forbidden.

It shall be a sufficient defence in any prosecution under this section to prove that the wild flower or native plant was grown upon private land and was picked with the consent of the owner or lessee of that land.

5A. The Minister may, in the prescribed form, and subject to any limitations as to locality and to any other conditions he may think proper, issue licenses authorising the holders thereof to pick the protected wild flowers or protected native plants specified therein for scientific purposes. Licenses to pick for scientific purposes. cf. s. 7 of Birds and Animals Protection Act, 1918.

6. Any person convicted of an offence against this Act shall be liable— Penalties.

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(2) The Railway Commissioners for New South Wales shall take measures to prevent any person selling or exposing for sale on railway premises any protected wild flower or protected native plant.

(3) Regulations may be made under the Government Railways Act, 1912, to give effect to this section, and to regulate or prohibit the carriage of protected wild flowers or protected native plants upon the Government railways. Such regulations may provide penalties not exceeding twenty pounds for any breach thereof. Regulations.

8. (1) Section four hundred and seventy-nine of the Local Government Act, 1919, is repealed. Repeal of s. 479 of the L.G. Act.

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