

SAVE COLONG bulletin

THE COLONG COMMITTEE • A National Wilderness Society

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SPECIAL ISSUE - SOUTH-WEST TASMANIA

Should the Great Architect care to look down at this globular speck he designed, possibly in a moment of aberration, he may well wonder why he bothered. Especially when he peers at Australia.

He would have to notice the utter destruction of his original work in the less than 200 years of European settlement, note it and turn away in despair.

For all around there is evidence man gives not a damn for his surroundings, only his pocket. Wilderness areas are drowned, beaches dug up, rain forests flattened.

Over the horizon the desert moves slowly and silently forward.

James Oram - Daily Mirror 12/8/82.



Serenity Sound - Great Ravine
Photograph - Bob Butler

THE SOUTH-WEST TASMANIAN WILDERNESS

(Reprinted with permission of 'Landscape Australia' the official journal of the Australian Institute of Landscape Architects and the author, Ian Skinner).

Standing on top of Mount Anne, the highest peak in South-West Tasmania (1425 m.) a vast panorama over the largest remaining area of temperate wilderness in Australia greets the eye in all directions. From this relatively isolated viewpoint within the heart of the South-West the observer gains a definitive impression of the vastness of this region.

Looking eastward the eye travels over the expansive eucalypt-clad valley of the Weld River to the broad peaks of Mts. Picton and Weld. A small tongue of cleared land discernible in the far distance indicates the gradual but unhalting encroachment of the forestry activities in the settled east. To the south the mauve hump of Precipitous Bluff standing 60 km. away on the coast is often cloaked in sea mist as the moisture-laden winds of the Southern Ocean confront its 1200 m. high bulk. Scanning west, the full extent of the wilderness stretching out to Port Davey and the entire south-west coast of the island is hidden behind a series of dramatic mountain ranges knife-edging the skyline, the closest being the Arthur and Frankland Ranges. The feet of the Franklands stand in the steel-grey waters of the greatly enlarged Lake Pedder, three separate dams which impounded the waters of the Huon and Serpentine Rivers in 1972, submerging one of Australia's rarest natural gems and creating unprecedented controversy over an environmental issue in this country.

If the viewer's eye follows the skyline northward it may spy the faint blue peak of Frenchman's Cap 90 km. to the north-west. Cutting its way in deep gorges through the Frenchman's Cap massif flows the Franklin River, at the centre of the present battle in the continuing struggle to preserve what remains of the South-West wilderness.

Tasmania's South-West has survived as wilderness to the present day through a combination of hostile geographical

features and severe climatic conditions. Lying directly in the path of the 'roaring forties' its rainfall is exceeded in Australia only by the Cape York Peninsula, often reaching 3500 mm. (11 ft. 6 ins.) per annum. All major peaks may receive heavy snow falls even in the summer months for the tenacity of its weather is legendary. Wild seas batter the harbourless coast from the longest oceanic fetch in the world, the land often plunging into the sea in sheer forbidding cliffs pocketed with small sand or pebbled beaches. Off-shore the many wave and windswept rocky islands render navigation extremely dangerous and have caused the demise of numerous vessels. Inland the topography is spectacular and varied, craggy mountain ranges forming rows of jagged silhouettes alternate with broad button grass (*Gymnoschoenus sphaerocephalus*) plains. The ranges run predominantly along a north-south axis and rise over 1000 m. above valleys of dense, virtually impenetrable forest and present Australia's finest true mountain scenery.

The rivers of the Gordon River drainage system, in their westward journey have cut through these mountains to form magnificent chains of gorges acclaimed to be among the most spectacular in Australia.

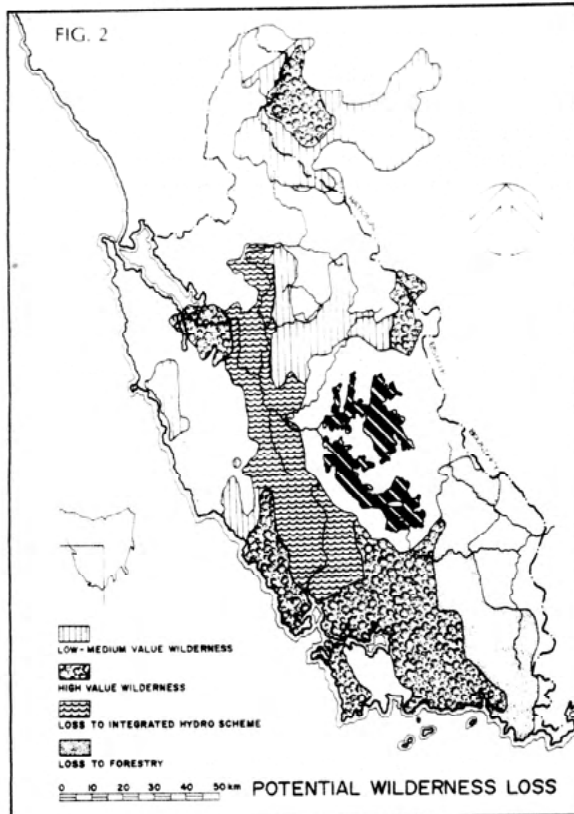
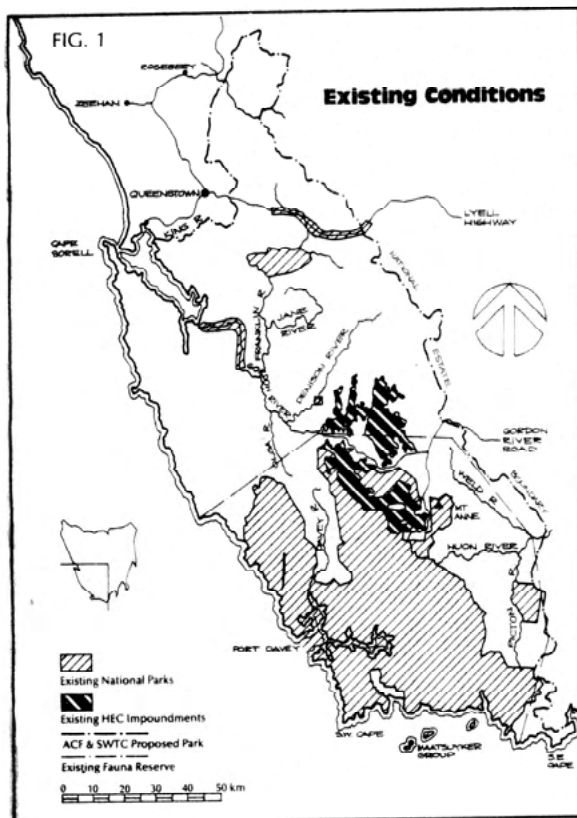
ASSAULT ON THE WILDERNESS

The dams on the upper Gordon, which included the flooding of Lake Pedder, have already created a "hole" in the south-west wilderness reminiscent, though on a vastly larger scale, of the "hole" in the Kanangra-Boyd National Park which would have resulted had the pine plantations on the Boyd not been prevented. Undeterred by the Australia-wide resistance to the flooding of Lake Pedder, the Tasmanian Hydro-Electric Commission, in October, 1979, presented to the Tasmanian State Parliament a report on a Gordon River Stage Two plan, the principal feature of which was a dam which would inundate most of the lower Gordon and about a third of the length of the Franklin. A further series of dams on the Davey, Franklin and King Rivers would complete the plan, known as the "integrated development".

Nor was the H.E.C. the only predator. The Forestry Commission has taken an enormous "bite" some 100 km. long and 30 km. wide out of the eastern section of the wilderness. The entire area claimed by anti-conservation authorities is within the boundary fixed by the Australian Heritage Commission when listing the

South-West wilderness as part of the National Estate.

The cumulative effect of the upper Gordon, integrated development and forestry allocations is shown in figures 1 and 2 below. They will reduce this once great wilderness to a remnant in the furthest corner of the state.



BULLDOZING THE PUBLIC, AND THE WILDERNESS

The strength of the resistance to the destruction of the South-West wilderness can be gauged by the progress of the Tasmanian Wilderness Society and its referendum campaign. In five years membership has grown from 16 to 3000.

As a result of the widespread public support the Society gained, the Tasmanian Government held a referendum on the Gordon dams. Voters were given the choice of voting for a

dam above the Olga River, which would have flooded only the Gordon, or a dam below the Olga River, which would have flooded both the Gordon and Franklin Rivers. This left them with no means of expressing their opposition to any dam in the wilderness area. The T.W.S. campaigned for an informal vote, with the words "no dams" written on the ballot paper. The T.W.S. referendum campaign far surpassed that of the major parties. The Society raised \$100,000, sent out 1,500 canvassers to knock on 130,000 doors and had its scrutineers at all the 500 polling booths. Though both

major parties were pro-dam and it is well known that most voters vote for their party right or wrong, 45% of those who voted voted informal, while 14% did not vote at all. The Government, placing its favoured interpretation on the result, claimed it as an endorsement of the lower Gordon dam. In a subsequent election, in which the A.L.P. Government was defeated, the incoming Liberal Government claimed it had a mandate for the dam, though the election was fought almost entirely on economic and administrative issues.

Bulldozers are already upgrading a road south from the Lyell highway, on the fringes of the wilderness. The road is to be pushed through to the damsite on the lower Gordon.

THE EFFECTS ON THE ENVIRONMENT

(Reprinted with permission of 'Landscape Australia' the official journal of the Australian Institute of Landscape Architects and the author, Ian Skinner).

Probably the most catastrophic effect, as the HEC says itself, would be the destruction of habitat. With the scant scientific study of the South-West's biota carried out so far, the region reveals a rich collection of varied, obscure and often endemic species. Many rare species and subspecies inhabit the South-West, including the Orange Bellied Ground Parrot (*Neophena chrysoquaster*), the Broad Toothed Rat (*Mastacomys fuscus*), numerous crustacea and aquatic vertebrae (e.g. *Prototroctes maraena*) and a host of plants. Among the many endemic plants are Australia's smallest eucalypt, *Euc. vermicosa* (varnished gum) often growing only 300 mm. high, and the famous Huon Pine (*Dacrydium franklinii*). The Huon Pine symbolises something of the age and timelessness of the South-West with each tree taking as long as 800-1000 years to reach maturity. Huon Pine is also one of the world's finest timbers being light, relatively strong, durable, fine grained and a pleasure to work with. In the early settlement days the timber was highly favoured for its ship building qualities to the extent that by 1880 the environs of Port Davey had been logged out, whilst working from the infamous Settlement Island penal

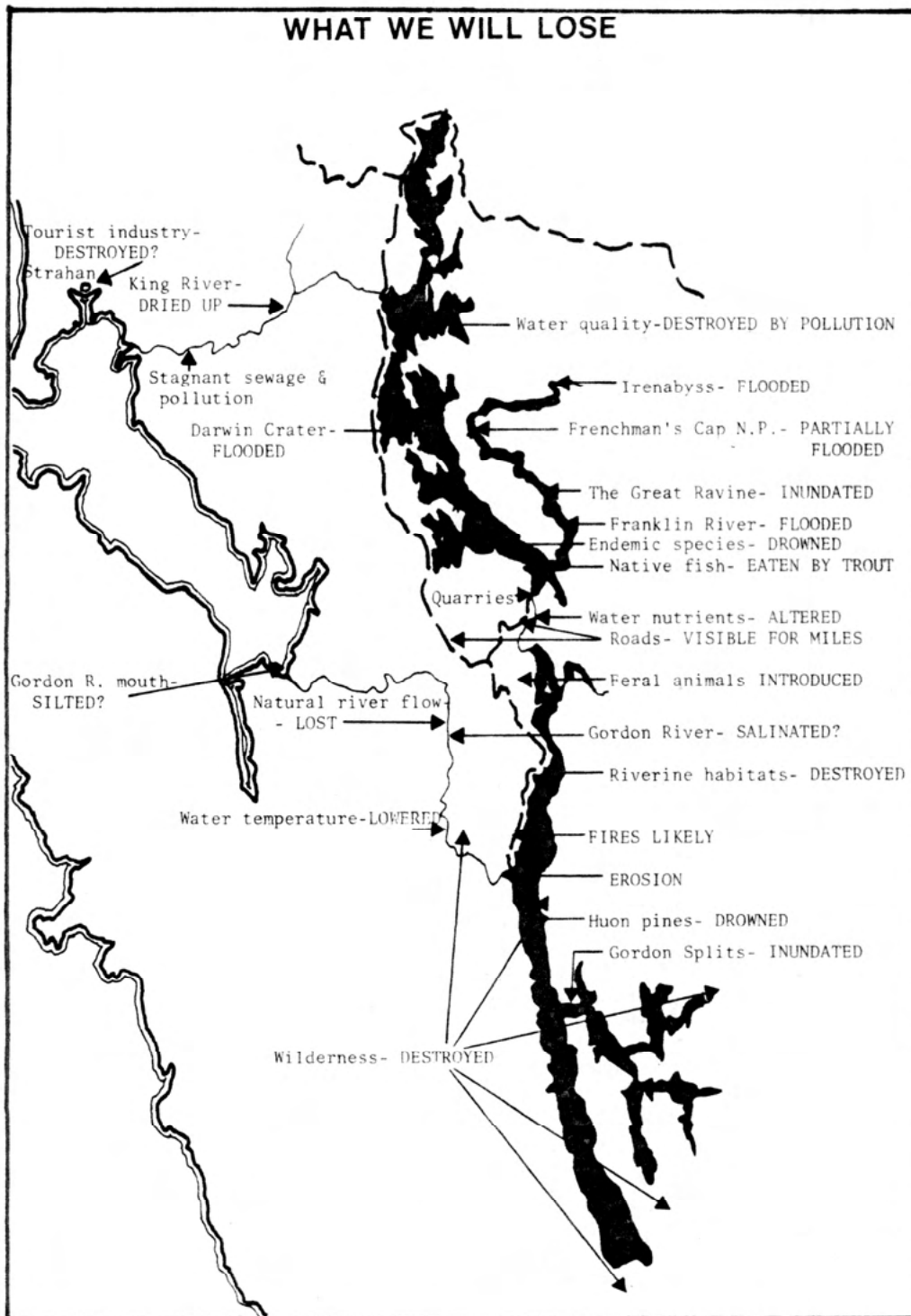
settlement (now Sarah Island) convict gangs logged the lower reaches of the Gordon and Franklin Rivers. As an indication of Huon Pine's durability the timbers of the Sarah Island slipways remain sound after well over a hundred years exposure to the elements of Macquarie Harbour.

By the beginning of this Century all major stands on the western rivers had been cut out with the only mature forests remaining on the Denison River which recently have become accessible by helicopter. One such stand has been preserved within the Olegas Truchanas Huon Pine Reserve which now has its isolation threatened by the Gordon above Olga Scheme. The catchments of the Franklin and Gordon are however thick with immature trees representing approximately 35% of the existing habitat, so any hydro-electric development is in effect a dire threat to the existence of mature Huon Pine even in a thousand years; well beyond the foreseeable validity of such development.

Speleological investigation has also been restricted until quite recently, yet preliminary explorations already show that the expansive limestone belt around the Franklin/Gordon junction contains vast cave networks unparalleled in Tasmania. In one cave on the middle Franklin a University of Tasmania archaeological expedition has discovered impressive deposits of aboriginal relics providing new insights into the past conditions of the region and rare historical records of this extinct race. Much older pre-historic records are contained in fossilised pollen samples in the Darwin Meteorite Crater on the Andrew River, a tributary of the Franklin.

(Subsequent research has shown that Fraser cave on the river is the most important archaeological site in the Southern Hemisphere, being a 15-20,000 years occupation site. Fraser cave was the one place in the Southern Hemisphere where man lived on the edge of the great ice sheet. The cave is the size of an aircraft hangar. - Ed.).

In keeping with the rugged topography



of the South-West the river valleys and gorges present a scale and majesty of landscape that is truly awe-inspiring to behold. In the Gordon Splits (a series of immense chasms originally believed to have been sections where the river flowed underground) the peak floodline scours the often overhanging walls some 30 m. above the normal summer level, yet unfortunately the existing middle Gordon dam has severely affected the flow of water through this section of the river. It will never again reach such levels until beyond the insight of man to tell. The Great Ravine, the Franklin's main gorge, is the result of the river finally cutting its way southward to deliver itself free from the Frenchman's Cap massif. In places the river lies 500 m. below the lip of the ravine in fathomless, tannin-darkened stretches flowing silently through channeled bedrock punctuated by heart-crushing unnavigable rapids and waterfalls. In the Great Ravine the visitor receives an inescapable impression of the might of our largest surviving wild river. The human-self, denuded of all the frameworks of civilisation, is dwarfed into insignificance by all that surrounds him; the boulder cluttered valley floor beneath bare flood-tortured chasm walls and above all the overpowering thunder of the river, roaring free, exploding into foam over broken unmovable bedrock.

Besides the obvious destruction through inundation, the area would be directly affected by the more insidious offshoots of human development. The construction of roads, townsites and quarries whilst permanently marring the landscape also provide corridors for the introduction of western man's constant companions, exotic weeds, pests, feral animals and such catastrophic plant diseases as *Phytophthora cinnamomi*.

In keeping with precedent the new impoundments would, more than likely be stocked with exotic trout. The voracious appetites of these creatures would rapidly eat out all native fish which had survived the drastic changes to their environment, and possibly even the great number of platypuses at present secretively

revelling in the river waters.

Extensive areas of the river catchments have developed slowly over the ages into climax rainforest predominated by *Nothofagus*, *Atherosperma*, *Eucryphia* and *Phyllocladus* species with only the occasional Eucalypt skeleton standing as a memorial to the process of the environment. These forests would be seriously threatened by the increased fire incidence accompanying such permanent human intrusion as the construction of any hydro-electric power scheme.

HYDRO ECONOMICS

- By Alex Colley

The debate as to whether hydro power is cheaper than other forms is beside the point. The problem is not one of economics but of land use. Like the Forestry Commission of New South Wales, the HEC of Tasmania, an engineering organisation, has assumed the role of arbiter of the use of Crown land. Dams are regarded purely from the engineering viewpoint with no regard for ecology and justified on economic grounds by insubstantial window dressing. The HEC has expertise neither in land use planning nor economics.

It has for long been accepted that land use shall not be determined by purely economic criteria, which usually translates to the self interest of developers. In modern times land use planning authorities have been created to ensure that environmental preservation and amenity prevails over private or sectional interests. Parklands have been reserved with little thought of their productive value. In the days before mechanised transport, most parks were within walking distance of urban development. With the advent of railways, areas accessible by this mode of transport were set aside - e.g. the Royal National Park and Ku-ring-gai Chase. Motor transport opened further wilderness areas to exploitation but at the same time made them accessible to tourists. Many such areas have been reserved - e.g. Kosciusko and Wollemi. Air transport has made more distant areas such as Kakadu, Ayers rock and Cradle Mountain reserve

readily accessible. Metropolitan parklands such as the Botanic Gardens, the Domain and Hyde Park would now have immense value as real estate, so would Ku-ring-gai Chase, the Royal National Park and Kosciuszko. The necessity for wilderness parks is now recognised, though nobody can calculate their economic worth for public recreation and enjoyment.

The HEC assumes that indigenous power is essential for economic development. This is an obviously false premise. The most successful post-war economy is that of Japan, whose indigenous power resources are very small. The second most successful economy is that of West Germany, also deficient in power resources. Great Britain, despite the bonanza of North Sea oil, is in a bad way. The moral of this is that modern technology, fiscal policy (control of inflation and interest rates) and the high productivity resulting from good management and labour relations carry more weight than power resources, which are only one of the factors of production and can be imported. Tasmania itself confirms this point. It has the highest per capita electricity consumption in Australia, and the second highest in the world. The State has succeeded in attracting some industries dependent on cheap power, such as the Comalco aluminium refinery. Such industries are heavily subsidised by domestic electricity consumers and the taxpayer. Mr. Shann Turnbull, ex HEC Engineer, has pointed out that whereas small consumers of power pay 13 cents a unit the thirteen largest pay only 1 cent. Because of the larger and more efficient refineries being commissioned on the mainland, Comalco's continued presence in Tasmania is doubtful. If the refinery were closed down it would provide Tasmanians with three times the power which would be produced by the Franklin Dam at a fraction of the cost of that from a new hydro or thermal station. Some 1,200 jobs would be lost, but the \$40,000 saved per worker would provide adequate means for compensation. (see S.M.H. 12/1/82).

The heavy subsidisation of electricity consuming industry is a form of

protection directly opposed to the ideals of Federalism. One of the main objects of creating the Commonwealth was to bring all the States into one free trade area, thus enabling industry to locate where production costs were least. A corollary of this ideal is that workers must be free and willing to move to areas where employment is available.

The capital cost of the integrated scheme is estimated at \$458 million. Adding interest during construction at 11%, inflation at 11% and cost overruns comparable to the 63% already incurred in the Pieman scheme, the eventual cost would be \$3.4 billion. About 1,000 men will be employed in construction work for a period of about 16 years, so the cost of each 16 man-years of employment would be over \$30 million. Nor is there any certainty that the additional power will find a market. The Senate Select Committee of Inquiry (1981) has shown that the HEC has consistently overestimated demand for electricity and that the dam would not need to be started for 10 years or more. The B.H.P. has already cancelled its Temco aluminium project. Lack of markets means an idle plant while interest is compounded.

Both the construction work and the industries likely to use the power are highly capital intensive. Though the industrial sector consumes 75% of electricity generated it employs only 22% of the work force. Interest payments, which must be met either through increased domestic charges or taxation, would cost over \$800 a year per dwelling. Since most of this outlay would go to lenders outside Tasmania, rather than being spent on the products of labour intensive consumer goods industries within the State, the effects on employment would be disastrous.

No realistic assessment has been made of the costs of alternative means of power generation. This is because of the failure to allow for interest, inflation and cost over-run during the construction period of the dams. There are alternative means of providing the power. The first is a thermal plant,

which could be built at half the capital cost of hydro. There is coal in Tasmania. It is insufficient, coal is available from the mainland. Shipping distance would be short compared to that which separates Australia from its overseas markets - notably Japan. Thermal stations provide continuous employment much in excess of that required for the operation of hydro power, while mining and transport of coal provides further employment. Mr. Shann Turnbull, in an investigation commissioned by the Business Association for Economical Power in Tasmania, has convincingly proved that a thermal station could produce power at a lower cost than hydro, even if coal were imported.

A second alternative is a Bass Strait cable to bring power from the projected mainland south eastern electricity grid. The Gordon-below Franklin scheme, which will provide 180 megawatts, is, in the words of Professor John Burton, "pretty Mickey Mouse" in comparison with planned development of 5,780 megawatts in New South Wales and 4,000 in Victoria, and, in view of the cancellation of Portland and other aluminium refineries, there should be no problem in supply. Nor has any consideration been given to using Bass Strait natural gas, which was at one time considered for use in New South Wales. Production of electricity by co-generation, or burning of wood wastes on site, is another possible option.

The real reason for the myopic view of hydro power taken by the Tasmanian Government is expressed by the South-West Tasmania Committee as follows:

The HEC is a very large organisation and wields considerable political and economic power. Its arguments have rarely been questioned, and its requests for new power schemes have never been refused. For many years neither the public nor the Government thought to question the policy or the methods used to further it.

ACTION BY THE COLONG COMMITTEE

The Colong Committee became a national wilderness society in 1972, and,

although its influence is greatest in New South Wales, it has supported the fight for wilderness preservation in other states, notably Kakadu in the Northern Territory and the Daintree National Park in Queensland.

The Committee made a submission to the Chairman of the Co-ordinating Committee of the Tasmanian Premier's Department in February 1980, in which most of the points covered in this Bulletin were covered. The submission read, in part:

The international significance of south-western Tasmania is widely recognised. As K. Kiernan has pointed out in the A.C.F. South-West Book, it is one of an unique trio of wildscapes, located on the west coasts of South America, New Zealand and Tasmania. In Chile, a much poorer and smaller country than Australia, 40,000 square kilometres of Patagonia (more than half the area of Tasmania) has been reserved for park purposes. Argentina has set aside 10,000 square kilometres of Argentinian Patagonia. New Zealand established a 10,000 square kilometre Fiordland National Park 76 years ago. Only 4,283 square kilometres of south-west Tasmania is reserved, a minute area in comparison with the Australian Commonwealth. UNESCO has described the south-west as a "wilderness area of incomparable significance and value", and Duncan Poore, Acting Director General of the IUCN, has described it as "one of the finest natural areas in the world", and "one of the last sizeable areas in the temperated parts of the world to retain its wilderness condition".

The cold wet uplands of the south-eastern mainland and of Tasmania are a complete contrast to the mostly flat hot and arid mainland. The New South Wales section of the south-eastern uplands has been partly preserved by the creation of the 1,507,400 acre Kosciusko National Park. Most of it does not qualify as wilderness because of the Snowy River Hydro-electric scheme and tourist development. With the damming of most of the Tasmanian rivers, and other development, south-west Tasmania is now the only substantial wilderness of its type in the Commonwealth. Elsewhere even those areas not subjected to pastoral

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or other development have been subjected to mineral prospecting, invaded by feral or introduced animals and plants, or damaged by fire. For this reason we believe the virtually unspoiled Franklin-Lower Gordon area should not be simply a catchment and storage for power generation, but a part of the National Estate.

We quoted the Prime Minister's speech to his electorate of June 10th 1979, in which he said:

"Australians today, perhaps more than ever before, care about the physical shape and face of our land. Australia is fortunate in still possessing a range of wilderness areas which contain fragile and complex environments.

Australia, too, is the last sanctuary on earth for many natural species. In a real sense we are the custodians of their survival. We want to preserve and protect our natural heritage. We know that no person, no organisation, can 'rebuild an island', renew a forest or swamp, or resurrect an extinct species. No decree of government can turn back the clock and save lost species or a lost wilderness.

That is why a Federal government has a national obligation to make decisions on any issue that affects our heritage. This is a responsibility that our Government has accepted."

Our submission concluded as follows:

A Commonwealth precedent for compensation on environmental grounds has already been created by the payments to Fraser Island sand miners. Should Tasmania consider itself disadvantaged by the abandonment of the hydro-electric scheme, it is likely that compensation payments would be widely approved by those who would benefit most from the inclusion of the Franklin-Lower Gordon area in a national park - the people of Australia.

We received a letter of thanks from Mr. Evers in which he said that our views would be most helpful in the analysis being undertaken and that copies of our submission would be drawn to the attention of his colleagues on the Co-ordination

Committee and to the HEC.

On July 7th 1980 we wrote to the then Premier of Tasmania, The Hon. D. Lowe. On the issue of Federal responsibility we said:

Mr. Fraser's concern for wilderness preservation appears to be outweighed by his concern for state land use rights. He may well reverse these priorities in view of the decision of the Federal Standing Committee on the Environment and Conservation, reported in today's Financial Review, to support the principle of federal control over South-West Tasmania and the Gordon River power development scheme... We see no compelling reason for the construction of the dams, and no obstacle to applying to the Federal Government for compensation should your State consider itself economically deprived by foregoing the power resources of the region in the national interest.

We received no reply to this letter.

On December 14th 1980 we sent telegrams to 7 members of the Tasmanian Legislative Assembly asking them to reject any moves for further dams and implement energy conservation programmes.

On February 6th 1981 we wrote to Mr. Fraser, pointing out that:

In 1975 the Australian people received promises that South-West Tasmania would receive protection from a Commonwealth Government led by you. This promise was reiterated again last year even though you have allowed borrowings by the Tasmanian Hydro-Electric Commission to be approved by the Loan Council.

We received a reply from the Hon. Ian Wilson, Minister for Home Affairs, on behalf of Mr. Fraser, stating that land management and land use decisions were primarily the concern of State Governments. Nevertheless the Commonwealth had announced the listing of South-West Tasmania in the Register of the National Estate, was considering nomination of the area for the World Heritage List, was prepared to assist the Tasmanian Government "to establish a national park including a substantial wilderness area of world significance", and was seeking advice

as to whether the Environment Protection (Impact of Proposals) Act 1974 applied to the proposed hydro-electric developments in South-West Tasmania.

On March 11th 1981 we wrote again to Mr. Fraser, pointing out that there were means other than hydro of supplying power to Tasmania, if power was in fact necessary to provide employment.

We wrote to Mr. Lowe again on September 27th 1981 and, again, no reply.

On October 1st 1981 we donated \$200 to the Tasmanian Wilderness Society.

On December 9th 1981 we made a submission to the Senate Select Committee on South-West Tasmania in similar terms to that made to the Tasmanian Premier's Department.

A further letter to the Prime Minister on February 14th this year was reported in full in Bulletin No. 71 and Mr. Fraser's reply in Bulletin No. 72.

The conflict between Mr. Fraser's unqualified support for wilderness preservation, together with his acceptance of Commonwealth responsibility for the National Heritage, and his repeated assertion that land use is a State matter, remains unresolved. Nevertheless the Commonwealth Government is making it increasingly difficult for the Tasmanian Government to wreck the South-West wilderness. If, as is probable, the wilderness is accorded World Heritage listing, at the behest of the Commonwealth Government, the Tasmanian Government will incur the censure not only of Australia, but of the world. By throwing the responsibility for loan raising for electricity generation on to the States, the Loan Council may well have ensured that the Tasmanian Government will be bankrupt if it builds the dams. The prevailing rate of interest for semi-government loans is 17%, and would be much higher if there were any doubts of the borrowers solvency, as there must be if a state the size of Tasmania embarks on a borrowing programme which may balloon

to \$3.4 billion and cost half a billion a year in interest payments.

NATIONAL CONSERVATION STRATEGY

Dr. Ivor Newman has submitted a brief synopsis of papers of environmental interest presented at the 52nd ANZAAS Congress 1982. His synopsis of the paper entitled as above is published in this special South-West Tasmania issue for two reasons. The first is the short time left for written comment by those interested, and the second is that no problem more clearly demonstrates the need for a national conservation strategy than that of responsibility for preserving the South-West Tasmanian wilderness. Dr. Newman's synopsis is as follows;

This title (National Conservation Strategy) brings together two items: "National Conservation Strategy" on page 110 and "What Kind of Conservation Strategy for How Long?" on page 106 (referring to Dr. D. F. McMichael's contribution to the Congress Symposium on "Environmental aspects of the new industrial scene", entitled "National Conservation Strategy for Australia". Dr. McMichael is Secretary of the Commonwealth Department of Home Affairs and Environment.

A National Conference of about 150 people selected equally from government, industry, and conservation movement is to meet in 1983 (24th February - 1st March) to formulate a National Conservation Strategy for Australia. Non-speaking observers may attend and lobby. A discussion paper, published on May 10th 1982 ("Towards a National Conservation Strategy") will be open for comment till September. A draft strategy will be published by January 1983. This and any submissions in writing to the delegates will be considered by the National Conference in February 1983, in formulating the National Conservation Strategy for Australia. (The above discussion paper and the NCSA Newsletter No. 5 giving organisational details are available from The National Conservation Strategy Task Force, Department of Home Affairs and Environment, P.O. Box 1252, Canberra City, ACT, 2601).

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Dr. McMichael's Congress Symposium paper discussed aims and possibilities of the proposed strategy: "The goal is the integration of conservation and development to make certain that modification to the Australian Environment does ensure the continued survival of our living resources as well as optimum well-being for our people". The Prime Minister has suggested that the Conservation Strategy be included in the agenda of the mid-1983 Premier's Conference. The Strategy is to be seen not in Doomsday terms but as a set of guiding principles. The widest participation is needed in its formulation: Study the discussion paper and respond to it.

(A more detailed synopsis is available in the T.E.C. library).

WHAT TO DO

Everybody can help in one way or another, according to their enthusiasm, time and means. Effective help can be given in the following ways:

MANNING THE BARRICADES

The following communication has been received from the South-West Tasmania Committee:

So serious has the situation now become regarding the Franklin River that it is time for each of us to stand up and be counted on whether we will allow an uneconomic scheme to destroy the last wilderness in Australia, and at the same time create only 30 jobs. The call has gone out to people concerned with the environment to prepare to go down to Tasmania to stand in front of bulldozers in the biggest environmental peaceful protest in Australia's history.

The occupation of the new road is likely to start some time between August and October, so be ready. Our aim is not violence, but a peaceful and passive opposition to the most ludicrous and destructive scheme of recent years.

WHAT IF I'M ARRESTED...?

There are only 200 jail cells in the whole of Tasmania, so it is unlikely that many people will be arrested. The Tasmanian Wilderness Society has organised a legal fund to bail people out and to fight court cases, so you won't stay there long. All protestors will be thoroughly briefed on how to avoid arrest and on what to do if arrested, so...

If you can spare 2 weeks (or even less) contact the South-West Tasmania Committee on 267 7929, and put your name down on the list to be contacted when the protest begins. With your help, the Terania Creek protest will look small, compared with the fight for freedom of the Franklin.

If you have any time to spare to help, ring the South-West Tasmania Committee, on 267 7929.

ATTENDING THE FOLLOWING

25th September (Saturday):

"Rage for the Rivers" Bushdance
7 p.m. 'Malphray's Barn'
218 Warimoo Avenue, St. Ives
Admission and Dinner \$10
Prebooking for tickets (02) 267 7929

9th October (Saturday)

March and Rally
Assemble Sydney Square 10.30 a.m.
March to Hyde Park South
Rally 12 Noon

27th September (Monday)

General Meeting of the South-West Tasmania Committee of New South Wales

25th October Monday

General Meeting of the South-West Tasmania Committee of New South Wales

WRITE TO YOUR FEDERAL MEMBER
ENCLOSING THE BULLETIN
(Extra copies free if required)

SLIDES AND PHOTOGRAPHS OF SOUTH-WEST TASMANIA - lend them to the South-West Tasmania Committee

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If you live in the electorates of Phillip, Barton, Bradfield, Bennelong, Eden-Monaro or Cook JOIN THE TASMANIAN WILDERNESS SOCIETY BRANCH IN THE ELECTORATE.

RETURN THE FORM ATTACHED TOGETHER WITH THE NECESSARY.

SOUTH-WEST TASMANIA and COMMONWEALTH POWER

by Murray Wilcox, Q.C., President, Australian Conservation Foundation. (This article was written for The Bulletin, and the Minister for Home Affairs and Environment. Although Mr. Wilcox wrote that it might be "a little long", we reproduce it in full because it clearly establishes that the Commonwealth Government DOES HAVE THE RESPONSIBILITY AND THE POWER to protect South-West Tasmania. A copy of this Bulletin will be sent to Mr. Fraser).

During recent months numerous representations have been made to Commonwealth Ministers in relation to the projected Gordon below Franklin hydro electricity scheme in South-West Tasmania. The usual reply to such representations is for Ministers to state that the question of protection of South-West Tasmania, or its development, is the responsibility of the Tasmanian Government.

There is no doubt that the Tasmanian Government has a responsibility but it does not follow that the Commonwealth Government lacks responsibility or power. Under the Australian Constitution there are various powers committed to the Commonwealth Parliament which may be used to override decisions or legislation of a State Government otherwise perfectly lawful. The question, therefore, is not whether the Tasmanian Government has responsibility but rather whether the Commonwealth Government has any responsibility or power in relation to the matter.

Australia is a signatory to the UNESCO Convention for the Protection of the World Cultural and Natural Heritage adopted on November 16th 1972. The Convention was ratified by Australia

on August 22nd 1974, thus bringing the Convention into force for Australia. The Convention is a multi-lateral agreement, having been adopted by a vote of 75 to 1 at the 17th Session of the UNESCO General Conference. The recitals to the Convention emphasize the international significance of the loss of heritage. Thus the second recital reads:

Considering the deterioration or disappearance of any item of the cultural or natural heritage constitutes a harmful impoverishment of the heritage of all the nations of the world.

Article 2 defines the term "natural heritage" as including "natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty". Article 4 provides: "Each State Party to this Convention recognises that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage...situated on its territory, belongs primarily to that State. It will do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain".

Australia is a "State Party" to the Convention.

Article 5 provides that to ensure that effective and active measures are taken for the protection, conservation and preservation of the cultural natural heritage situated on its territory, each State Party shall endeavour, insofar as possible and as appropriate for each country:

"(d) To take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, preservation and rehabilitation of this heritage".

Article 8 provides for the constitution of an inter-governmental committee

called "The World Heritage Committee". Article 11 requires the Committee to establish a "World Heritage List" being a list of properties forming part of the cultural heritage and natural heritage "which it considers as having outstanding universal value".

The South-West Tasmanian Wilderness has been entered upon the Register of the National Estate established pursuant to the Australian Heritage Commission Act 1976. As such, it may be said to have been identified by an agency of the Commonwealth Government as being part of Australia's "natural heritage". Moreover, the area has been nominated by the Commonwealth Government for entry on to the World Heritage List. That nomination is expected to be formally approved at a meeting of the World Heritage Committee next October.

In these circumstances it would appear to be clear that the obligations imposed by the Convention upon the Australian Government, as a party to the Convention, arise in respect of South-West Tasmania. In particular, there is an obligation under Article 4 for the Commonwealth Government to "do all it can" for the conservation of the area and its transmission to future generations. Article 5 includes an obligation to take appropriate legal measures.

The general position, under the Australian Constitution, is that the Commonwealth Government does not have legislative authority in respect of land use control. However, there are exceptions to this proposition and the question must always be resolved by reference to the heads of power set out in s.51 of the Constitution. If, in relation to a particular matter, there is a relevant head of power then the Commonwealth Parliament has the constitutional authority to legislate and that legislation overrides any inconsistent legislation of a State (s.109 of the Constitution).

Section 51 of the Constitution provides that the Commonwealth Parliament shall have power to make laws with respect to:

"(xxix) External affairs".

This power was recently considered by the High Court of Australia in *Koowarta v. Bjelke-Petersen* (1982) 39 A.L.J.R. 417. The Court, by a majority, held that the Racial Discrimination Act 1975, enacted by the Commonwealth Parliament, was supported by the external affairs power. The legislation was a statutory implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (1966). The Court rejected arguments that the external affairs power should be read down to exclude areas otherwise within the concern of the Australian States. The majority pointed to the significance of the fact that a particular matter had been the subject of an International Convention. The test was stated in various ways, each one of which would appear equally applicable to any legislation designed to implement the UNESCO Convention for the Protection of the World Cultural and Natural Heritage.

Stephen J.:

"Thus areas of what are of purely domestic concern are steadily contracting and those of international concern are ever expanding. Nevertheless the quality of being of international concern remains, no less than ever, a valid criterion of whether a particular subject matter forms part of a nation's 'external affairs'. A subject matter of international concern necessarily possesses the capacity to affect a country's relations with other nations and this quality is itself enough to make a subject matter a part of a nation's 'external affairs'....."

Its content will be determined not by the mere will of the executive but by what is generally regarded at any particular time as a part of the external affairs of the Nation; a concept the content of which lies very much in the hands of the community of nations of which Australia forms a part": per Stephen J. at pp.453-454.

Mason J.:

"Increasing emphasis is given in the United Nations and in regional organisations to the pursuit by international treaties of idealistic and humanitarian goals. It is

important that the Commonwealth should retain its full capacity through the external affairs power to represent Australia, to commit it to participation in these developments when appropriate and to give effect to obligations thereby undertaken.

Nor is there a solid foundation for implying a restriction that the treaty must relate to a matter which is international in character or of international concern, if the suggested restriction is intended to convey more than that treaty is a genuine treaty. It is difficult to perceive why a genuine treaty, especially when it is multi-lateral and brought into existence under the auspices of the United Nations or an international agency, does not in itself relate to a matter of international concern and is not in itself an external affair. It is scarcely sensible to say that when Australia and other nations enter into a treaty the subject matter of the treaty is not a matter of international concern - obviously it is a matter of concern to all parties." : p.463.

Murphy J. :

"The Constitution envisages no division of external affairs power between the Parliament and the State Parliaments. The Parliament, in exercising the external affairs power (as well as its other powers), is entitled to make laws for the peace order and good government of the Commonwealth, that is, of the people as a whole, notwithstanding the opposition of any State Government or Parliament. The people of the States are entitled as well as obliged to have the legislative and executive conduct of those affairs which are part of Australia's external affairs carried out by the Parliament and Executive Government of Australia: at p.473.

Brennan J. :

"When a particular subject affects or is likely to affect Australia's relations with other international persons, a law with respect to that subject is a law with respect to external affairs..... Where a particular aspect of the

internal order of a nation is made the subject of a treaty obligation, there is a powerful indication that that subject does affect the parties to the treaty and their relations one with another. They select that aspect as an element of their relationship, the obligee nations expecting and being entitled in international law to action by the obliger nation in performance of the treaty. And therefore to subject an aspect of the internal legal order to treaty obligations stamps the subject of the obligation with the character of an external affair.

The international quality of the subject is established by its effect or likely effect upon Australia's external relations and that effect or likely effect is sufficiently established by the acceptance of a treaty obligation with respect to that subject". : pp.486-487.

The approach taken in the judgements in *Koowarta* appears equally applicable to the UNESCO Convention for the Protection of the World Cultural and Natural Heritage. This was a Convention entered into by a large number of countries under the auspices of an agency of the United Nations. It deals with a matter regarded as being a matter of international concern. It follows that the Commonwealth Parliament has power to enact legislation to implement, within Australia, its obligations under that Convention. These obligations extend to the protection of areas of the natural heritage not upon the World Heritage List. It would certainly apply to areas nominated by the Australian Government, and accepted by the World Heritage Committee, as meeting the criterion for inclusion on the World Heritage List namely "having outstanding universal value".

The Commonwealth Parliament has already recognised its entitlement to legislate in respect of the Convention. The National Parks and Wildlife Service Conservation Act 1975 contains a provision s.69, empowering the Governor General to make regulations for and in relation to giving effect to various specified agreements. These include the Convention for

the Protection of the World Cultural and Natural Heritage. As the Convention is now in force it would appear that regulations could be made to implement the Convention and thus protect South-West Tasmania. The Commonwealth Government has a clear responsibility, under the Convention, to protect South-West Tasmania and the Commonwealth Parliament has power to pass any necessary legislation to achieve this objective.

August 20th 1982.

There is no doubt at all that the saga of Lake Pedder will go down in Australian history...Many people believe that the decision to flood Lake Pedder was a mistake. All the more reason to investigate the facts because it is usually more profitable to learn from failure than from success.

I very much hope that never again will Australians have cause to question so vehemently a decision on any conservation issue.

HRH Prince Phillip, "The Pedder Papers."

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SOUTH WEST TASMANIA COMMITTEE OF NEW SOUTH WALES

P.O. Box N204, Grosvenor Street, Sydney, NSW 2000

OR C/o. Environment Centre, 399 Pitt Street, Sydney, NSW 2000

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