**FISHERIES ACT AMENDMENT BILL 1938**

**House of Assembly, 6 July 1938, pages338-41**

Second reading.

**The Hon. T. PLAYFORD (Gumeracha— Commissioner of Crown Lands)—**A number of amendments to the Fisheries Act are proposed by this Bill. Many of the amendments arise out of the recommendations of the Royal Commission on the Fishing Industry, which was appointed in 1934. This commission, which consisted of Messrs. R. J. Rudall, M.P., H. M. Hale, and E. A. Sheridan, made an exhaustive inquiry into the fishing industry in South Australia, and presented a series of valuable and informative reports. Other clauses of the Bill are based upon suggestions by the Chief Inspector of Fisheries. The clauses deal with different matters, and it will therefore be necessary to discuss each clause separately. It will perhaps be most convenient if the clauses are explained in the order in which they appear in the Bill rather than in the order of their importance.

Clause 2 makes some amendments to the definition section of the principal Act. The present definition of “fish” is rather confused, inasmuch as no proper grouping of the various classes included in the definition is attempted. The clause therefore re-enacts the definition with grouping according to species. A definition of “hand crab net”: is provided by this clause. The term is used in section 47, where it is enacted that a person may take fish without a licence with a hand crab net. In some cases it has been found that fishermen regard a net of any proportions as a hand crab net, and it is therefore provided that a hand crab net is not to exceed 3ft. 6in. in diameter. The clause also provides that the words *“*ware” and “half ware*”* in the definition of “oysters” are to be deleted. These words have no significance and are therefore deleted.

Subclause (1) of clause 3 provides that the Minister may, on the application of any person holding a licence, revoke his licence, and, in any case thought fit by the Minister, refund a proportionate part of the licence fee. It sometimes occurs that people take out licences which subsequently they do not wish to use, and this provision will give the Minister a discretion in these circumstances to revoke the licence and make a refund of part of the fee if he thinks fit. Subclause (2) enables the Minister, upon the recommendation of the Chief Inspector, to direct that a licence to take fish or oysters be issued without fee to any fisherman of long standing who is over the age of 65 years. There is a number of old fishermen who absolutely refuse to take advantage of the old age pension or to live upon the charity of others but continue fishing in order to maintain themselves. It is felt that it would be fitting to recognise their self-reliance by enabling the licence fee to be remitted. The fee prescribed for this purpose amounts to £1 a year.

Clause 4 is submitted as the result of a recommendation of the Royal Commission. In its reports the commission frequently referred to the fact that adequate statistics relating to the fishing industry were not available and that, for the purpose of arriving at informed conclusions as to the proper course to be taken in dealing with such matters as close seasons for fish of any kind, the prescribing of minimum weights and sizes, and other matters relating to the conservation of fish supplies, statistics are essential. It is obvious that much of the information which can be collected by the Fisheries Department must be supplied by or obtained from persons engaged in the industry. The commission therefore recommended that professional fishermen should be required to supply periodical statements of their catches and that wholesale fish dealers and agents should produce their books of business for inspection. Section 10 of the principal Act gives an inspector power to enter any boat, fish market, shop, etc., for the purpose of examining fish, and other matters. Clause 4 provides that he may also examine and make copies of any records relating to fish or oysters. This question is also dealt with in clause 19.

Clause 5 is also drafted as the result of a recommendation by the Royal Commission. This clause provides that an inspector may requisition a licensed fishing boat for the purpose of carrying out his duties under the Act. Payment of compensation to the person deprived of the use of the boat will be made by the Minister. For the proper policing of the Act, inspectors must be able to visit the fishing grounds, but it is not always possible to have a departmental boat available for this purpose. The clause will, therefore, permit an inspector to use a fisherman’s boat for inspec­tion purposes.

Clause 6 makes an administrative amendment to section 13 of the principal Act. Section 13 provides that licences to take fish and oysters are to be either yearly or half-yearly, and are to expire on the last day of December or last day of June, as the case may be, next after their issue. As the law is at present enacted it is therefore impossible, consistent with strict compliance with the Act, to renew a licence until the old licence has expired. Clause 6 enables a licence to be renewed within 14 days before the expiry of the old licence. Section 14 of the principal Act provides that where a person takes out a licence to take fish and oysters the licence applies to the licensee and also one member of his family who is under the age of 21 years and is working with the same plant as the licensee. The only persons who may be included in this concession are the sons, daughters, stepsons, and stepdaughters of the licensee. It is proposed by clause 7 to add the licensee’s wife to the list of those persons. The effect will then be that a licence will apply to the licensee and any one of the wife or children or stepchildren of the licensee. The present limitation as regards age will continue to apply to the children and stepchildren.

The Hon. R. S. Richards—Does that mean that one licence will cover the whole family?

The Hon. T. PLAYFORD—No, the licensee and one member of his family.

The Hon. R. S. Richards—Must the licensee stipulate which one when taking out the licence ?

The Hon. T. PLAYFORD—I am not quite sure, but I will ascertain.

The Hon. R S. Richards—I raise the point because it appears that the licence may be used by any member of the family.

The Hon. T. PLAYFORD—I think it must be stipulated. Clause 8 proposes to set up a new form of licence to take fish and oysters. Under the present law the owner of a fishing boat must take out a licence for himself if he personally engages in fishing. Every employee on the boat must also have a licence and the licence is issued to the employee in his own name. The usual practice is for the employer to pay the licence fee, but, of course, the licence is in fact issued to the employee. If the employee leaves his employment and the employer engages a new hand another licence is required for the new hand. It is, therefore, provided by the clause that an employer may take out an employee’s licence which will be sufficient licence for any one person employed by him. It is provided that these employees’ licences will apply to natural born British subjects or naturalized British subjects, except that, with the Minister’s consent, it may apply to an unnaturalized person who has not qualified for naturalization by the length of his residence in Australia, or an unnaturalized person who has made application for a certificate of naturalization. These restrictions are now imposed by section 13 on the issue of an ordinary fisherman’s licence to any person. Clause 9 is based upon a recommendation of the Royal Commission. Under section 15 of the principal Act every member of the police force in charge of any waterside police station is authorised to issue a licence to take fish or oysters. The Royal Commission recommended that all licences should be issued by the Fisheries Department. Clause 9 therefore provides that licences are to be issued by the Chief Inspector or some person authorised by him. Sections 15a and 15b of the principal Act deal with the granting of licences to per­sons of an exclusive right to take fish within specified areas of the sea. Clauses 10 and 11 extend the provisions of these sections to rivers and make provision for the issue of certificates for that purpose. Section 16 of the principal Act provides for the registration of fishing boats. Some confusion is now caused by reason of the fact that when the ownership of a boat is transferred the department does not receive notice to that effect. It is therefore provided by clause 12 that a transferee of a registered boat is to give notice of the transfer to the department within one month of the transfer.

Clause 13 arises out of the recommendation of the Royal Commission. Section 47 of the principal Act provides that any person may without any licence take any fish, whether under the prescribed weight or not, with any rod and line, or hand line and hand crab net, if the fish are not sold. The result is that an amateur fisherman, so long as he does not use a net, may take fish of any size and in any quantities. It is considered that for the proper conservation of fish in South Australian waters it is essential that undersized fish should not be taken, whether the fisherman is an amateur or not. It was given in evidence before the Royal Commission that many undersized fish of valuable species, such as whiting, are taken in this manner and many cases simply wasted, and that the number of undersized fish caught in this way had a serious effect upon the whiting supplies in South Australia. It is obvious that, if large numbers of any kind of fish are taken before they have reached the spawning stage, the numbers will be depleted and the commission evidently came to the conclusion that the privilege given by the section had been used to such an extent that, in the interests of the industry, it should not be continued. It is therefore proposed by clause 13 of the Bill that this exemption will be removed.

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Clause 14 also is based upon a recommendation of the Royal Commission. Section 49 of the principal Act authorises any licensed person to take underweight fish for bait. It is considered that to permit this practice with regard to valuable fish such as whiting is wasteful, and it is therefore provided that this exemption will not apply to whiting or any other fish of any prescribed species. Clause 14 repeals paragraph (h) of section 53, which prohibits the buying and selling of any roe except roe in the fish. It is difficult to see the reason for this prohibition. If fish are lawfully caught there seems to be no reason why the roe should not be sold separately from the fish, if there is a market for it. Clause 16 provides that to every pump line whereby water is drawn from the sea or any river, there shall be provided a fish protection screen of a pat­tern approved by the Chief Inspector. It has been suggested that a considerable loss of fish takes place, particularly in the River Murray, by reason of the operation of pump lines without protecting screens, and that for the preservation of the fish life the provision of these screens should be made obligatory.

Clause 17 provides that where a person follows the calling of a fisherman or fish dealer and he consigns, carries, or transports any fish or oysters he must mark on the outside of the box his name and address and, in the case of a fisherman, the number of his registered boat. In any proceedings, evidence that any box con­taining fish in the course of consignment or transport bore the name of any person shall, in the absence of proof to the contrary, be sufficient proof that the fish or oysters were the property of the person named and were being consigned, transported, or forwarded for sale. This provision is necessary to enable the pro­visions of the Act relating to undersized and out of season fish to be enforced. At the present time it frequently happens that fish of this character are discovered in packages, but there is no direct evidence of the ownership of the fish, and to secure that evidence considerable expense must sometimes be incurred. The provisions of the clause will remedy this position without inflicting any hardship or injustice on defendants.

Clause 18 is the result of another recommendation of the Royal Commission, and provides that in the case of penalties for a first offence against the Act there will be a minimum penalty of £2, and in the ease of a second offence a minimum penalty of £5. The maximum penalties now provided, namely, £20 for a first offence and £50 for a second offence are not altered.

Clause 19 extends the power of the Governor to make regulations, and is based upon the recommendations of the Royal Commission. The first regulation making power given is one dealing with amateur fishermen, and provides that the Governor may make regulations dealing with the issue of licences for amateur fishermen, prescribing fees therefor, and prescribing periods during which only licensed persons may take fish from stocked waters. The purpose of this provision is to enable proper control to be exercised over stocked waters, so that an amateur fisherman’s licence may be issued to those desirous of fishing in these stock waters and that unlicensed persons may be prohibited from fishing in these waters. The remaining provisions of this clause gives various powers to the Governor to make regulations for the furnishing of statistics relating to the fishing industry. As before mentioned, it was considered by the commission, to be of the utmost importance that statistics relating to the fishing industry should be collected. The Fisheries Department, among other things, should secure information as to the quantity of fish taken, the place where they are taken and the use to which the fish are put, and to enable this to be done those engaged in the industry must supply the necessary information to the department. If regulations are made and statistics collected over a period of years, the department should, in the future, be in possession of information which should be of the greatest value to any Government in considering the proper policy to be laid down in connection with any matter relating to the fishing industry or the conservation of fish supplies. I move the second reading.

The Hon. R. S. RICHARDS secured the adjournment of the debate.