FISHERIES BILL 1917

House of Assembly, 18 September 1917, page 215

Second Reading

**The MINISTER of INDUSTRY—**This Bill is to consolidate the whole of our fisheries legislation. We have spent a considerable amount of money in the stocking of our waters with various classes of fish, particularly trout, and we have been handicapped in regard to the care of those fish from the fact that, where the water runs through private property, it is competent for any person to go there and destroy the fish by means of dynamite or other illegal devices. This destruction takes place very seldom with the approval of the owners of the land, and our inspectors have no redress. Where we have spent in one year perhaps a few thousand pounds, the whole of the young fish have been destroyed by means of dynamite. I am pleased to say that the private owners who have rivers running through their properties approve of the Bill.

Mr. Laffer—Does it make the use of dynamite illegal?

The MINISTER of INDUSTRY—Yes. The other important alteration made is in regard to the use of illegal devices in closed waters. It is provided at present that no illegal device may be used in closed waters unless the person using such device is catching fish for bait, and this nullifies the whole of the regulations under the Act. During certain periods of the year one can see thousands of small fish that have been dragged out of nets and destroyed on the beach between Glenelg and the mouth of the Port River, and the people responsible for this wholesale slaughter escape punishment because they say they do it for the purpose of obtaining bait. If we are to maintain and replenish our supplies of fish, we must have absolute control of the closed areas, which are breeding grounds. Apart from the points mentioned, the Bill is purely a consolidating measure. The Parliamentary Draftsman reports:—

“This Bill consolidates and amends the Fisheries Acts and the Oyster Fishery Acts. At present there are four Acts dealing with fisheries and oyster fisheries, namely, the Oyster Fisheries Act, 1885, amended by the Act passed in 1914, and the Fisheries Act, 1904, with an amending Act passed in 1909. The administration of fisheries and oyster fisheries has recently been amalgamated, and it is particularly desirable to have identical provisions relating to fish and oysters, especially with regard to the issue of licences, the registration of boats, and offences. The principal amendments made by the Bill are directed towards removing certain anomalies in the Fisheries Acts, which give undue privileges to the amateur, and in some instances give opportunity for persons, to defeat the objects of the Act with impunity. For example, section 22 of the Fisheries Act totally exempts amateur fishermen from the provisions of the Act, so that at present amateurs may fish in closed waters, may use dynamite in the taking of fish, and may take underweight fish. In fact, the taking of underweight fish by amateurs is so much a matter of course as to call for no comment.

Another defect in the present Fisheries Act is the total exemption of persons taking fish for bait. Under cover of this exemption, professional fishermen sometimes fish in closed waters, and when challenged, assert that they are taking fish only for bait. Another anomaly under the present Fisheries Acts is that they apply only to waters the property of the Crown, and private owners are free to use dynamite in taking fish, or to destroy fish in any manner they choose in waters on their own property. This often prevents the proper propagation and breeding of fish in rivers like the Onkaparinga. Provision is therefore made in the present Bill that the Act shall apply to private waters as well as to waters the property of the Crown. Various other amendments of minor importance have been made, mainly with the object of obtaining a more workable measure, and taking advantage of the experience which has been gained in the administration of the Act. In particular the provisions authorising payment by the Government for heads of cormorants, turtles, and tortoise have been omitted from the Bill. It has been found in practice that unscrupulous persons sometimes obtain these heads in other States, bring them into South Australia, and obtain payment for them by making a declaration that the heads were obtained in South Australia. Moreover, authorities are by no means agreed that cormorants, turtles, and tortoises are so destructive of fish as was formerly considered to be the case.

Part I. of the Bill deals with various preliminary matters, and does not call for special comment. Part II. deals with administration. This part follows substantially the lines of the existing legislation on the subject, with minor adaptations which do not call for special comment. Part III. deals with fisheries and oyster fisheries. Division I. authorises the issue of licences to take fish and oysters. Instead of, as heretofore, there being two licences, one for fishing and another for oyster fishing, there is to be only one licence in future, which will authorise the holder to take either fish or oysters. These licences are, as heretofore, to be issued by the police; but a provision has been inserted making every police officer in charge of a waterside police station ex officio an issuer of licences. This will do away with the necessity of making a special appointment in each case. Division II. of this part deals with the registration of boats, and substantially follows the existing provisions on the subject. Division III. deals with natural oyster beds. At present the discoverer of a natural oyster bed may obtain from the Treasurer an exclusive licence for the use by him of such oyster bed; but before doing so he has to comply with certain formalities. He has, for instance, first to publish in the ‘Government Gazette’, for four consecutive weeks, a notice of his application, and any person claiming to be a prior discoverer of the bed in question may come in and oppose the granting of the application. This gives opportunities to dishonest persons, by means of manufactured evidence, to filch from a deserving person the proper reward of his enterprise. These provisions have therefore been omitted from the Bill, and the grant of the licence may be made by the Minister without the observance of any preliminary formalities. In other respects the provisions of this division correspond with the present law. Division IV. deals with artificial oyster beds, and follows with very slight variations the provisions of the existing law on the subject. The object of these provisions is to enable appropriate spots on the coast to be leased for oyster culture. Division V. contains miscellaneous provisions with respect to oyster fishing. These are all taken practically verbatim from the Oyster Fishery Act, 1913.

Part IV. This part contains various miscellaneous provisions, and special attention is directed to clauses 47, 48, and 49, which deal with various total or partial exemptions from the operation of the Act. These exemptions are set out specifically, and are intended to be construed strictly . Clause 47 authorises the taking of fish and oysters by amateurs for the taker’s household consumption, but not for sale, without any licence being required. All that the clause is intended to do is to exempt persons taking fish or oysters as therein mentioned from the necessity of having to pay a licence fee and take out a licence; they must observe the other provisions of the Act in the same way as if they were licensed. Clause 48 exempts from the operation of the Act full-blooded aboriginal natives taking fish for their household consumption. They are not, however, allowed to use dynamite. The clause also exempts the owners of private waters taking fish in such waters with a lawful device, and also exempts persons taking, with the written consent of the Minister, fish bona fide for the purpose of stocking other waters. Clause 49 authorises the taking by licensed fishermen of fish under the prescribed weight if taken for bait, but such fish must not be taken from closed waters or with an unlawful device. The remainder of this part adopts with slight variations the provisions of the existing law. Part V. deals with offences against the Act, and penalties therefor. The provisions of clause 53 of this part are adopted, with slight variation, from section 24 of the Fisheries Act, and no new offences are created. The remaining provisions of the part are also taken, with very minor alterations, from the existing law. Part VI. deals with regulations, and consolidates the provisions of the various Acts giving power to the Governor to make various regulations for carrying out the objects of the Acts. Part VII. contains various evidentiary provisions, and various provisions as to procedure for offences against the Act. Clause 61(f) of this part is new. It provides that the fact that there were in any boat on any particular day any fish or oysters shall be prima facie evidence that the person who occupied the boat on that day took such fish or oysters on that day. This provision will assist materially in securing convictions for offences against the Act, for in the nature of things it is almost impossible for the Fisheries Department to give direct evidence of the taking of fish or oysters. Clause 62 of this part is also new. It makes the captain of a fishing boat liable for an offence committed by his employee unless he proves that he took all precautions to ensure the observance of the Act, and that the offence in question was committed without his connivance.”

The Bill with those two exemptions is really a consolidation of legislation. There is a feeling generally that the House should on every possible occasion consolidate Acts, and in this Consolidating Act we have made the necessary provision to enable us to carry out the consolidation in such a manner as will meet with the approval of the House.

The Hon. A. A. KIRKPATRICK—I accept the Minister’s word that this Bill is to consolidate with the exception of the two points to which he referred, that is, the protection of fish from persons who unscrupulously destroy them by dynamite after having been acclimatised in our waters, and also in regard to catching fish altogether too small for market and throwing them out.

The Minister of Industry—Catching them in closed waters and saying they are for bait.

The Hon. A. A. KIRKPATRICK—I accept the honorable member’s word, and support the motion.

Mr. PRICE—It is a good thing to consolidate Acts of this character in order that we can readily look up any information required. We should prohibit the use of dynamite upon any particular industry, but should be very careful in regard to what we are doing concerning net fishing. I happen to know that net fishing takes place on the coast between Brighton and Port Adelaide, and the mesh to which the Minister takes objection in this Bill is quite wide enough to permit of the escape of small fish; consequently the small fish would not be destroyed as indicated by the Minister. Honorable members are constantly urging for cheaper fish, and we must be very careful not to put anything in the way of the people receiving fish as cheaply as possible. I appeal to the Minister to make some provision in this Bill whereby it would be permissible to use nets, providing they are of sufficient mesh to allow of the escape of small fish.

The Minister of Industry—That cannot be done in closed waters.

Mr. PRICE—What would the Minister call closed waters?

The Minister of Industry—Any waters that have been closed against fishing by nets or other devices, by proclamation.

Mr. PRICE—Does the Minister suggest that the coast from Brighton to Port Adelaide is to be a closed area?

The Minister of Industry'—No.

Mr. PRICE—That was the point I was referring to. The people of this State should get as much fish as possible, and at the cheapest rate.

Mr. TRAVERS—I intend to support the second reading. The general principle of consolidation should be applied to all Acts where they deal with practically the same subject. There are only a few clauses in this Bill which will have the effect of altering the present law, and those clauses undoubtedly are in the best interests of the community. Everything possible should be done to increase production, and a Bill of this description, which provides for the saving of waste, should have the support of every honorable member.

Mr. ALLEN—If this Bill will prevent people from catching fish that have been imported for breeding purposes, it should have the support of every honorable member. As far as oysters are concerned, they can protect themselves very well. While I commend the Government for trying to assist private individuals to protect fish introduced into various streams, a little latitude might be allowed as far as the wide ocean is concerned. I understand that under the present Bill all fishermen, whether amateurs or professionals, will have to be licensed. If that is done, and the conditions of the present Act strictly enforced, I do not think there is much need to penalise anyone for using a net of regulation mesh. The consolidation of Acts is a move in the right direction, as at present it is almost impossible to gather information from different Acts relating to the same subject.

Bill read a second time.

In Committee.

Clauses 1 to 13 passed.

Clause 14—“Licence sufficient for licensee and one member of family”.

The MINISTER OF INDUSTRY—This clause is similar to the section already in existence. The licence is issued to the cutter and not to the individual. Some boats are owned by several persons, and when the licence is taken out the number of the boat is granted and the licence is issued as a joint licence for the boat.

Clause passed; clause 15 passed.

Progress reported; Committee to sit again September 19.