

him to report any offence to the local authority, as he can only prosecute at the request of such authority. I know country members are keenly interested in the Bill. Any further explanation desired I shall be glad to furnish during the Committee stage. I move—

That the Bill be now read a second time.

On motion by Hon. W. J. Mann, debate adjourned.

House adjourned at 6.15 p.m.

Legislative Assembly,

Tuesday, 29th October, 1940.

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The SPEAKER took the Chair at 4.30 p.m., and read prayers.

QUESTION—NURSES, TRAINING.

Mr. SAMPSON asked the Minister for Health: 1, In view of the increasing demand for nurses, both overseas and locally, will he take action to liberalise the conditions relating to their training? 2, As a war measure, will he give consideration to (a) a reduction of the commencing age to 17 years in lieu of 19 years as at present; (b) if necessary, establish additional grades of nurses; and (c) arrange for the training of nurses in all country hospitals where fully qualified matrons are engaged? 3, If he considers these proposals practicable, will he give publicity to the altered conditions?

The MINISTER FOR HEALTH replied: 1, The Minister has no power in this matter, which is in the hands of the Nurses' Registration Board. 2, (a) Some training

schools admit at 18; some at 19 years of age. It is not considered desirable to further reduce the commencing age, and there is no necessity in view of the fact that sufficient numbers of applicants are always available. (b) and (c) The suggestions are quite impracticable. The inclusion of several medium-sized hospitals in the training scheme has recently been accomplished. 3, Answered by 2 (b) and (c).

BILLS (2)—THIRD READING.

1, Tramways Purchase Act Amendment.

2, Money Lenders Act Amendment.

Transmitted to the Council.

BILL—REGISTRATION OF FIRMS ACT AMENDMENT.

Report of Committee adopted.

BILL—CIVIL DEFENCE (EMERGENCY POWERS).

Recommittal.

THE MINISTER FOR MINES (Hon. A. H. Panton—Leederville) [4.33]: I move—

That the Bill be recommitted for the purpose of further considering Clause 10 and inserting a new subclause.

Members will recall that Subclause (2) of Clause 10 was deleted from the Bill in Committee. On going into the question and discussing the matter with the officers of the Crown Law Department, I found that much of the effectiveness of the measure will be lost if members adhere to their original decision. That arises from the fact that only by implication will local governing bodies, should they so desire, be permitted to undertake any work regarding civil defence. The subclause I propose to move to insert in the Bill represents the original provision which has been made purely permissive instead of compulsory. Another factor that has caused the Government concern as a result of the Committee's decision to strike out the subclause and particularly in relation to the debate that ensued in Committee, was the argument advanced by the member for Perth (Mr. Needham) and supported

strongly by the member for Nedlands (Hon. N. Keenan) that it was no function of the State Government or of local governing bodies to spend money on defence works or for the protection of the civil population. Other members argued that such work was no function of the local governing authorities and that certainly it should not be within the province of the Government to compel any local authority to spend money on civil defence. Not many members spoke on the issue, and it was difficult to arrive at just exactly what the 20 members who voted for the deletion of the subclause actually had in mind. The Government is faced with the position that if the arguments advanced by the member for Perth and the member for Nedlands, to the effect that it was not within the province of the Government to spend money on civil defence, represent the decision of Parliament, then it will be very difficult for the State Government to spend money on civil defence undertakings at all. In fact, the Government would be justified in accepting that decision as an instruction from Parliament that it should not do so. To the Government such a decision seems rather absurd. Necessity might arise in many directions should the State be invaded or should there be an air raid, for the Government to spend money in taking action for the protection of the civil population. For that reason it has been decided to move for the recommittal of the Bill with a view to inserting a new subclause in the form I have indicated. Without some such provision, the right would be taken from local authorities to do anything regarding civil defence should they so desire. The principle involved is important, and such a matter should not be decided in Committee on the discussion of a subclause. The stage at which principles should be discussed is when the Bill is before members on the motion for the adoption of the second reading. That stage has passed, and I suggest that the proper course will be to debate the principle on the motion for the third reading. Obviously to discuss such a big principle as the right or otherwise of the Government to spend money on civil defence matters, quite apart from the consideration regarding local governing bodies, when dealing with a subclause in Committee is hardly a fair proposition. I suggest

that, if members wish to debate the principle, they do so at the third reading stage.

Question put and passed; Bill recommitted.

In Committee.

Mr. Withers in the Chair; the Minister for Mines in charge of the Bill.

Clause 10—Powers of local authorities with respect to civil defence:

The MINISTER FOR MINES: I move an amendment—

That the following subclause be added:—

(2) The costs, charges, and expenses incurred by a local authority in exercising any of the powers or performing any of the duties conferred or imposed upon it by this Act or the regulations may be borne by and paid out of the funds and revenues of the local authority and, in so far as such funds and revenues are and will be insufficient for the purpose of discharging such costs, charges, and expenses the local authority may, in accordance with its borrowing powers under its local government Act, but subject as hereinafter provided, borrow moneys for the purpose of discharging such costs, charges, and expenses or any portion thereof:

Provided that, when a local authority proposes to borrow any money for the purpose of discharging any of the costs, charges and expenses aforesaid and the Minister is satisfied, and so certifies by writing under his hand that the need for borrowing moneys by the local authority is urgent the local authority may proceed forthwith to borrow moneys for the purpose aforesaid without publishing any notice of its intention or proposal so to do, and without giving or affording to any persons an opportunity to call for a referendum on the question, whether or not the local authority shall be permitted to borrow moneys as proposed or intended, notwithstanding any provisions to the contrary contained in the local government Act of such local authority.

If hon. members consult page 8 of the Bill and compare the wording of Subclause (2) of Clause 10 contained therein with the wording of the amendment, they will perceive that the words "and, if so required by the Governor by notice in writing served on the local authority, shall", appearing in lines 8 to 10 of the original Subclause (2), have been omitted from the amendment, as also have the words "or is required by the Governor" appearing in the first and second lines of the proviso. The deletion of those words makes the subclause purely permissive. The proviso has been retained because it is felt that if the occasion arises when a local governing body finds itself in

the position of desiring to borrow money quickly and in an emergency, it should be able to do so provided it has the Minister's consent. I received three deputations from the local governing bodies and was also interviewed by the chairman of the association, Mr. Black, and I was informed that all the local governing bodies are desirous of having authority to act quickly in the matter of civil defence. Their present Act does not give them that power.

Mr. Doney: Did you discuss with them the amended proposal?

The MINISTER FOR MINES: No. They said that although they wanted that authority, they did not want to be placed in the position of being forced to spend a lot of money they considered the Government had no right to ask them to spend. With the deletion of the words to which I have referred, the Government cannot force them to spend money, but they will be in a position to do all they consider necessary. No fewer than 5,000 people are associated with A.R.P. organisations in Western Australia to-day. Many local governing bodies have afforded considerable assistance in the appointment and training of wardens, but they cannot spend money except out of the three per cent. fund and it is doubtful whether they have the right to do that.

Mr. Sampson: Could you not strike out Subclause (2) as it appears in the Bill?

The MINISTER FOR MINES: It has already been struck out. All we ask is that the local governing bodies should be given an opportunity to assist.

Mr. Patrick: They will have to get the Minister's permission.

The MINISTER FOR MINES: Only if they want to borrow money without a referendum. In that case the Minister will have to be satisfied and say so in writing. That would be done only in a great emergency.

Mr. NEEDHAM: I hope the Committee will not agree to the subclause. With other members of the Committee, I opposed the original subclause because I considered it compelled local authorities to bear the cost of defence which should be borne by the Commonwealth Government. The Committee deleted the subclause, and if the Bill in its present shape becomes law—

The Premier: It will be no good.

Mr. NEEDHAM: I disagree. Sufficient power is left in the Bill to enable local auth-

orities to do everything necessary in connection with A.R.P. work and to make all requisite preparations against invasion or attack. The first portion of Clause 10 gives the local authorities all the power they require. The Minister need have no anxiety about the State Government having to take action to protect the civil population in the event of attack. That would be the Government's duty whether the Bill became law or not and the Government could still debit the cost of such precautions to the Commonwealth Government. The only difference between the amendment and the subclause which originally appeared in the Bill was that the latter was mandatory upon the local authorities and the former is not so. In other words, the amendment provides that it shall be optional for the local authorities to meet the cost of the requisite undertakings. Some of them may agree to do that or to borrow money in order to do so, while others may refuse to take action. I see no reason why this Committee should place local authorities in the position of being referred to as unpatriotic. On a previous occasion the majority of members decided that local authorities should not bear the cost of national defence. If they pass this amendment, they will stultify their previous vote. Suppose a local authority refused to do this work, would the State Government have to meet the cost? The responsibility should be put into the right hands.

The Minister for Mines: Which are the right hands?

Mr. NEEDHAM: Those of the Commonwealth Government! If it is obvious there would be no need for this legislation unless we were at war, it is equally obvious that being at war the Government of the Commonwealth should meet the cost of all defensive measures.

Mr. TRIAT: I trust the amendment will be agreed to. Already the Bill has been mutilated so that it will be of no use without the amendment. The people of the Commonwealth as a whole may be called upon to defend the country, and I see no reason why those who are situated in Western Australia should not play their part. Why should not local authorities be permitted to provide air raid shelters for the protection of our citizens? If we do not win the war, it will not matter to the local authorities whether they have any money left or not. I remind members of what General Durrant

said according to the "West Australian" of the 21st October last. He was talking about the militia. He stated that there was a general feeling that the men who wanted to fight joined the A.I.F., and that those who had cold feet joined the militia. He indicated that such beliefs were harmful and imperilled our safety. He also said that it was not beyond the bounds of possibility that the militia might be under fire before some of those who had joined the A.I.F. That was a serious statement. The General's view was that there was a likelihood of an attack upon the Commonwealth at some time in the future. If that is so, it is time we made the necessary preparations for the protection of the civil population. The Government does not intend to direct local authorities to build air raid shelters, but to give them the opportunity to do so should the occasion arise. Everything possible should be done to care for the lives of the people. We are all anxious to win the war and to save life as much as possible in doing so, but when it comes to touching the pockets of some people they at once declare, "You cannot do that." What is the use of money unless spent in the right direction? Hot air will not win the war. I am prepared to go even further than the clause goes. Meantime I support the amendment.

Hon. N. KEENAN: No one imagines that there will be any expenditure in this connection in either Kalgoorlie or Northam or in that part of the world represented by the previous speaker. The expenditure will be mainly, if not entirely, at Fremantle. There will be no air shelter at Nedlands, for instance. What is the good of an air-raid shelter if a person is half-a-mile away? The charge should be a national charge instead of a local charge, if it is to be borne by the people of this State. Every part of the State should contribute to the expenditure, instead of one or other possibly small municipality being called upon to bear the cost while other municipalities are not called upon to spend a single penny. Obviously, Guildford-Midland would be a centre of attack if there were an air raid, with the object of destroying the Midland Workshops. Under the scheme of the Bill practically all the expenditure would fall on the Midland Junction Municipality, with perhaps a small portion on the Swan Road Board. The Bill is wrongly drawn. It throws the whole of

the expense on small local governing bodies. The expenditure should not be a State expenditure, but should be met by the Commonwealth. All that was agreed to at the Canberra conference was the preparation of schemes and plans to be submitted to the Commonwealth in order that defence measures might be carried out if necessary.

The Minister for Mines: That is incorrect, anyhow.

Hon. N. KEENAN: I refreshed my memory by reading what the Minister said on the second reading. "Passive defence" was to be prepared—whatever "passive defence" may mean. Members will find the Minister's remarks on page 399 of the current session's "Hansard." To oppose a measure of this character is most invidious. We must all be prepared to make sacrifices—even sacrifices beyond our present dreams—before the struggle ends. I shall not press my opposition beyond the stage to which I pressed it on a former occasion.

Mr. DONEY: As I understand the position at the moment, I object to the amendment, but not for the reasons stated by the member for Perth. I see little difference between the provision now submitted and the old one as regards effect on the finances of local governing bodies. The Minister stresses that the raising of loans by these bodies will be purely optional. However, having read the amendment I feel doubtful on that point. The Minister endeavours to convey that the Bill deals merely with certain small commitments already made by such bodies.

The Minister for Mines: I did not say that at all.

Mr. DONEY: There is nothing optional about the word "imposed" that is used in the amendment. The wording of the proviso might seem to imply that any action would be permissive on the part of a municipality or road board. But these bodies cannot do otherwise than borrow when the obligation is legally imposed upon them. If the Minister's explanation does not dispose of the two points I have raised, I shall go back to the amendment which I placed on the notice paper two or three weeks ago.

Mr. HOLMAN: When this matter was discussed previously, the great objection was that the Bill made it mandatory on local governing bodies to borrow money. The use of a single objectionable word, however, does not make a whole clause objectionable. The amendment gives to a local governing body

the option of borrowing or not borrowing. It covers the objections which have been raised. The member for Williams-Narrogin referred to whether a local governing body proposed to borrow money. If it wishes to borrow, what right have we here to say that it shall not do so? No right whatever. If members raise objections now, they do not raise them for the reasons previously given.

Mr. SAMPSON: When this subclause was before the Chamber previously, the Government was said to be leaning too heavily on local authorities. Any objection which existed then on that score has been removed by the altered conditions embodied in the amendment, which enables local authorities to raise loans for purposes stated in the Bill. It is important that that should be done. In times of stress we might be tempted to act without authority; and the Bill is designed to deal with emergencies. I am surprised the member for Nedlands considers that the matter should be a community one so far as the road boards and municipalities of the State are concerned. If that were so, then portion of the expense of some defence work carried out for the protection of the residents of Nedlands would have to be borne by the ratepayers of the Gascoyne-Minilya Road Board or the Wyndham Road Board. I do not agree with that contention at all. The people who should make the payment are those living in the district where the danger is likely to occur. I hope the subclause will be agreed to.

Hon. W. D. JOHNSON: My constituents have given much consideration to this Bill, and, for the reasons pointed out by the member for Nedlands, asked me to move for the deletion of Clauses 10 and 11. The measure, as a whole, is badly drafted. On looking up the Minister's speech—as suggested by the member for Nedlands—I find that this is a Western Australian Bill, not a Commonwealth measure. The Bill is unlike similar legislation passed by other States. It definitely throws upon our people a larger degree of responsibility than evidently the other States expect their people to accept. We are imposing an obligation on the local governing bodies which will be in the firing line should the enemy visit our shores.

The Minister for Works: Why should they not accept that responsibility?

Hon. W. D. JOHNSON: Because in my opinion it is unjust to ask them to do so. The Bill puts a burden on a section of the community, whereas if Western Australia deserves and requires protection, the cost should be borne by the State as a whole.

Member: Then your objection is only on the score of expense?

Hon. W. D. JOHNSON: Yes. It might be very difficult for a local governing authority to raise money for the purposes of the Bill; but the Government's opportunity to do so is unlimited, because in this matter it will work in collaboration with the Loan Council. The Commonwealth, which controls the purse, will no doubt make money available to our Government for a cause covered by the Bill. I do not favour the proposed subclause for the reason that Subclause 1 remains in the Bill. That subclause imposes a statutory duty upon local governing bodies. Clause 11 also involves local governing bodies in a statutory duty. The clause goes further; it says that should a local governing body not fulfil its statutory duty, the Minister may take appropriate action against such authority. Our duty should be to try to distribute the burden equitably. It is unreasonable to place a heavy burden on a few parts of the State to the exclusion of other parts. We must apply common sense to the measure and ascertain exactly how it will apply. It will not apply generally. That being so, a burden is being placed upon particular centres and therefore the measure is unjust. I cannot imagine the Bill passing another place, because it will impose a heavy charge on property in a limited area where it is most valuable. I cannot see my way to support the amendment.

Hon. C. G. LATHAM: I had intended to support the amendment; but, after listening to the Minister, I am pleased that I read Clause 11 again. A statutory obligation is imposed by that clause.

The Minister for Mines: The amendment will not affect Clause 11.

Hon. C. G. LATHAM: The amendment imposes a certain duty on local authorities. If members will turn to Clause 7, they will appreciate the great amount of expense to which a local governing authority might be put.

The Minister for Mines: What effect would this subclause have on Clause 11?

Hon. C. G. LATHAM: The effect of the amendment is that the Minister may do the work and call upon the local authority to pay for it.

The Minister for Mines: Where does the Minister get that power?

Hon. C. G. LATHAM: Under Subclause 2 of Clause 11. Under the amendment the costs, charges and expenses incurred by a local authority would be borne by the local authority, which, if the ordinary revenue was insufficient, would have to borrow. The Minister, to abolish the need for a referendum, provides a short-cut for borrowing, but the provision will not relieve the local authorities. The vulnerable spots will be principally the coastal towns. What protection has Geraldton, Albany, Bunbury, or any of the North-West ports? We should not go to the Commonwealth for help on every occasion. We have a personal responsibility to our people and the expense should be met by the State Treasury. The argument of the member for Perth was not logical. An individual has to take precautions to protect his property, and the same principle should apply to temporary relief in the event of an invasion. I cannot support the amendment, which will not have the effect the Minister mentioned.

The Minister for Mines: The power is already provided under Clause 11.

Hon. C. G. LATHAM: Yes.

The Minister for Mines: Then why object to the amendment?

Hon. C. G. LATHAM: The Bill should be defeated on the third reading with a view to its being redrafted. There is no doubt that the measure will inflict hardship upon the local authorities.

The MINISTER FOR MINES: If it was intended to recommit the other clauses mentioned, there would be something in the argument, but members deliberately passed the other clauses. This provision will not affect Clause 11 in any way. All it will do will be to give the local authorities the power to expend some money, power for which they have asked. The money need not necessarily be spent on shelters. Five thousand men in the A.R.P. organisation, assisted by the local authorities, have given much time to learning decontamination work, etc., and this entails some expenditure. The local authorities have no power to spend funds for such purposes. Much organisation is needed to arrange precau-

tionary measures. If there was an invasion, decontamination squads might be needed, and some authority should have the power to order the pulling down of dangerous walls. Members of the organisation would do the work and local bodies are anxious to assist them. The subclause will give the requisite authority and the proviso is designed to meet only an extreme contingency. Apart from this measure I cannot imagine any local authority asking permission to borrow without a referendum. If such a request was made, would any responsible Minister grant it? The question whether the Commonwealth or the whole State should meet the expense is one for discussion on the third reading, not on this clause.

Mr. DONEY: The Minister's explanation has not removed my fear that local bodies might suffer far beyond their ability to bear. Because of the obligations imposed upon local bodies by Clause 11, the amendment is dangerous. In order to minimise the danger, I move—

That the amendment be amended by adding a further proviso as follows:—“Provided further, nevertheless, that no local authority shall propose or be required under the provisions of this section to borrow money without complying with the provisions of the local government Act of such local authority in excess of 40 per centum of the maximum amount which at the time such local authority is authorised to borrow under such local government Act.”

That will definitely limit the obligation of the local governing authority no matter how the Bill gets on. Unfortunately, the local governing bodies are by no means similarly situated in regard to war risks. Some will incur risks while others will escape altogether. The cost under the clause, may be beyond the compass of some of the local bodies to meet and if the necessity arose, some might be completely bankrupted, and would be unable to carry on. The possibility of such a situation arising should be prevented.

The MINISTER FOR MINES: I have no objection to the amendment.

Amendment on amendment put and passed.

Subclause, as amended, put, and a division taken with the following result:—

Ayes	..	..	..	..	33
Noes	..	..	..	..	4
Majority for					27

AYES.

Mr. Berry	Mr. Nulsen
Mr. Boyle	Mr. Panton
Mr. Coverley	Mr. Patrick
Mr. Cross	Mr. Rodoreda
Mr. Doney	Mr. Sampson
Mr. Fox	Mr. Seward
Mr. Hawke	Mr. Shearn
Mr. W. Hegney	Mr. F. C. L. Smith
Mr. Hill	Mr. J. H. Smith
Mr. Holman	Mr. Stubbs
Mr. Hughes	Mr. Thorn
Mr. Lambert	Mr. Triat
Mr. Leahy	Mr. Warner
Mr. Mann	Mr. Willcock
Mr. McLarty	Mr. Willmott
Mr. Millington	Mr. Wilson
Mr. North	(Teller.)

NOES.

Mr. J. Hegney	Mr. McDonald
Mr. Johnson	Mr. Needham
Mr. Keenan	Mr. Watts
	(Teller.)

Subclause, as amended, thus passed.

Bill again reported with an amendment.

BILL (2)—RETURNED.

1. Fremantle Gas and Coke Company's Act Amendment.
2. Royal Agricultural Society Act Amendment.

Without amendment.

BILL—FISHERIES ACT AMENDMENT.

Second Reading.

Debate resumed from the 24th October.

HON. C. G. LATHAM (York) [5.56]:

The Bill which is a very simple one, was fully explained by the Minister for the North-West. It consists almost entirely of provisions for increasing fines and providing for trout acclimatisation in the State. Our method of imposing fines is wrong. We should leave it to the discretion of the magistrate trying the case. In some of our statutes we fix both the minimum and the maximum penalty and frequently a fine is imposed for a breach which was not intentional and the magistrate has to impose the minimum fine. Then application is made to the Government for a remission of that penalty. That is not a good principle. If it is possible for anyone to approach the Government and secure the remission of a fine for one offence, it is possible to do so in respect of other offences. That is not right. It should be left to the judiciary to decide what penalty should be imposed. Perhaps if we do not make provision for a minimum

fine the Minister will say that offenders will continue to break the law knowing that they are likely to be fined a nominal figure when the result of their catch—if the offence be in respect of fishing—will yield them a figure much in excess of the penalty. The magistrate, however, would take all that into consideration. Moreover, a magistrate is not beyond being told what should be the right thing to do and at the same time he should remember that the intention of Parliament is that such matters should not be treated lightly. I do not intend to criticise any particular magistrate, but I do know that offenders do escape with light penalties. With regard to the acclimatisation of trout, I consider it will be difficult to establish them in our rivers. Nevertheless we know that trout fishing is of considerable importance in various parts of the world, particularly from the tourist point of view. I know that it means many thousands of pounds to New Zealand. In that country, however, the waters are cold and the trout thrive, while here the waters are much warmer and consequently not so favourable.

There are one or two other points about the Bill that do not appeal to me. For instance, I do not agree with the clause that seeks to place the onus of proof on the defendant. I am surprised at the Minister for the North-West placing such a proposal before the House when he, as member for Kimberley, repeatedly fought against that principle.

The Minister for the North-West: Do not be too emphatic! I may prove your statement wrong.

HON. C. G. LATHAM: I can quote instances to indicate how the Minister voted against this principle. Notwithstanding that fact, the first time he is asked to embody the principle in the Bill he agrees to do so. That principle is definitely wrong. I supported you, Mr. Speaker, when, as member for Fremantle, you fought against such a provision, and that applies also to the member for Murchison (Mr. Marshall). As a matter of fact, I do not think there was any member so persevering in his opposition to the principle as the member for Fremantle. I remember that when I was a Minister of the Crown that hon. member conspired with the Attorney-General of the day to induce Parliament to agree to a Bill, the object of which was to delete from Acts on the statute-book all provisions that placed the onus of proof on the defendant. I hope members will

not accept the clause when the Bill is dealt with in Committee. Furthermore, exceptionally wide powers are to be placed in the hands of the Chief Inspector of Fisheries, who is to be allowed to dispose of any gear or anything else that he takes, in any way he likes. Under that provision he will be able to give the things away himself. I do not think Parliament should grant to that officer powers never vested in anyone else. The police and the railway authorities are required to sell by auction goods that are confiscated. That is the proper way to deal with the position. We do not even ask the Chief Inspector of Fisheries to issue a certificate guaranteeing that the confiscated material has been destroyed. To my mind, the power proposed is extraordinarily wide. Apart from the features I have mentioned, the Bill merely seeks to increase the penalties and make provision for the acclimatisation of trout.

Unfortunately, there are no rivers in my electorate where trout could be established, but in the South-West in the electorates represented by the member for Collie (Mr. Wilson), the member for Nelson (Mr. J. H. Smith) and the member for Murray - Wellington (Mr. McLarty) there are rivers, and naturally those hon. members will be greatly interested in this legislation. I desire to compliment the organisation that operates throughout the South-West in promoting the establishment and acclimatisation of trout in our rivers. That organisation is carrying out excellent work and is receiving encouragement from the Government. I notice that provision has been made on the Estimates for a small grant. The work is very interesting and I saw a good deal of it in New Zealand last year. In fact, it is a rather important phase of governmental activity in that Dominion.

The Premier: For tourists.

Hon. C. G. LATHAM: The work is controlled by the Tourist Department. Many men are employed at the hatcheries, and it was interesting to watch them at work. The undertaking is lucrative to the New Zealand Government. I shall not oppose the Bill, but I hope the Minister will decrease the minimum penalty provided for a first offence. Although a man may have acted innocently for this comparatively minor breach of the law, he may be compelled to pay a fine of £5. I think it better to fix the maximum

penalty and allow a magistrate to exercise his discretion as to the fine to be imposed. When the Bill is in Committee, I hope to secure amendments that will make the Bill even more acceptable.

MR. STUBBS (Wagin) [6.5]: I welcome the introduction of the Bill for many reasons, but I regret its provisions are not more comprehensive. No member will disagree with me when I say that fish is a staple diet that is fast getting beyond the reach of the poor. When people are stricken down with various ailments, their medical advisers usually recommend fish as part of the diet. Yet supplies of fish are almost unobtainable by many of our people. For the last 40 odd years I have been familiar with the waters of Western Australia and fishing. No member of this House has a better knowledge of the fishing industry than I have. Less than 40 years ago anyone could take a hook and line, go to any part of the Swan River and quickly catch what he required of beautiful edible fish. Why is it that that same person could to-day go to the spot where he fished years ago, stay there for hours and yet not catch one fish?

Mr. Cross: Algae was the trouble.

Mr. J. Hegney: It is not there now.

Mr. Fox: There were better fishermen 40 years ago.

Mr. STUBBS: There must be some reason for the waters of our rivers being depleted, so that now we have lost what was formerly a wonderful asset to the community. That is why I regret that the provisions of the Bill have not been made more comprehensive so as to encourage to a greater degree an increase in fish supplies for the people. I have known the time when one could catch schnapper, bream and flounder by the hundreds in the Swan River. Thirty-five years ago supplies were so plentiful that even the poorest of people on the bread-line could have fish for breakfast two or three times a week. Just consider the position to-day. I could take you, Mr. Speaker, to any fish shop in the city and you would find that 2s. or 2s. 6d. lb. had to be paid for dhufish or schnapper. I call the attention of Parliament to the deplorable condition in which the fishing industry exists to-day.

Mr. Warner: Do you blame the fish or the fishermen?

Mr. STUBBS: To a large extent Parliament is to blame. The point I want to emphasise is that every clause in the Bill is not only justified, but, I think, will receive the support of members generally. Particularly do I applaud the clauses dealing with the acclimatisation of trout. In New Zealand and in the Eastern States rivers are stocked with trout and other fresh water fish, and this has served to increase the food supplies of the people. Western Australia suffers a disability in that there are few rivers in this State where trout can be established successfully. I assert, definitely and distinctly, that illegal netting, particularly in rivers where the fish have been accustomed to spawn, has been largely responsible for the depletion of our waters. When conversing with the present Chief Inspector of Fisheries and his predecessor in office, Mr. Aldrich, as well as with experts from the Eastern States, I have asked why our rivers that formerly were well stocked with bream and other fish, are now practically devoid of them. I think they were right when they said that the natural feed in the rivers had been exhausted. If the experts could evolve some scheme whereby that deficiency could be made up, and fish induced to migrate from the sea to spawn in our rivers once more, the benefit to the State as a whole would be undoubted. I consider illegal netting is largely responsible for the present scarcity of fish and for the high prices that are charged. One adverse circumstance is that 90 per cent. of those engaged in the fishing industry are foreigners. That phase requires the attention of the Minister who controls the Fisheries Department. In view of the unemployment in our midst, it seems regrettable to me that that should be so. Looking back over the past 40 or 50 years with my knowledge of the fishing industry, it is disheartening for me to go into a fish shop and when I ask for a pound of fish to be handed a bream or a schnapper with the eyes sunk deep in the sockets. For such fish I will be asked to pay 1s. a lb., although I know the fish has been out of the water for a month or six weeks.

Hon. C. G. Latham: And must be nearly dead!

Mr. STUBBS: Possibly it has been out of the water longer than that, yet such fish are sold to the public as fresh. As a keen

angler and a citizen of the State, I recognise there is a screw loose somewhere. If I may digress for a moment, Mr. Speaker, I tell hon. members that if they were to visit the back of the fish shops where the cleaning is done, they would marvel that the health authorities have allowed existing conditions to continue. Those people should have been prosecuted for breaches of the Health Act.

Sitting suspended from 6.15 to 7.30 p.m.

MR. BERRY (Irwin-Moore) [7.30]: This Bill, with a few minor amendments, will certainly have my strong support and I sincerely trust it will have the support of the whole House. The member for Wagin (Mr. Stubbs) referred to fish in Western Australian waters as being an asset to the State. In my opinion, they are more than an asset, they are a national heritage, something which we are holding in trust for future generations. For that reason, it behoves us to ensure that everything possible is done to protect our fisheries. This Bill is a step in the right direction; under it, the penalties for net fishing are increased. Quite rightly, because I have seen instances of nets dragged on to beaches and the smaller, uncommercial fish thrown on the beaches and suffocated by crabs, octopi and squids. Even if one desired to go to the trouble of picking out these smaller fish and throwing them back into the sea in order to save them, the task would be an impossible one in the circumstances. The Bill also empowers inspectors—in addition to the authority which they already have under the parent Act to enter upon any land or beach—to commandeer any boat in any bay for the purpose of carrying out their duties. In my opinion, this is a necessary power, because if the Fisheries Department decided at the present time to send one of its boats from Fremantle to Rockingham, the departure of that boat from Fremantle would be known in Rockingham within a few minutes, and thus the people committing a misdemeanour would be forewarned, and of course forearmed. I hold a rather exaggerated opinion as to the penalties that should be imposed: for some offences I would recommend the confiscation of a man's boat. There is no doubt that some of the things done in our waters at the present time with our fish are wicked. Magistrates seem apt to regard

fishermen who have committed crimes as being poor people, and for that reason have inflicted penalties so light as to be ridiculous. These light penalties must be stopped. The penalties should be high enough to act as a deterrent.

The member for Wagin, in his able speech, told us the story of the Swan River. With your permission, Mr. Speaker, I propose to relate, as best I can, the history of Safety Bay. Safety Bay is one of the heritages of Western Australia. I say one, because I have heard about similar bays all along our coast which are being abused in the same way as has Safety Bay. Safety Bay is approximately three miles south of Rockingham. It is, as members are no doubt aware, girdled by a reef. Through that reef are certain passages. One passage happens to be that through which annually thousands upon thousands of schnapper come into the bay to spawn. The passage is approximately a mile wide, but through that passage known as "Tub" the schnapper come. The interesting thing about the schnapper is that no one—not even the men who have been fishing there for years past—can say whence they come. It is assumed they come from the south coast because they are first caught in Murray Bight, a small bay just south of Safety Bay. What we do know, however, is that they come in thousands into Safety Bay, pick particular spawning spots, and of course spawn—if they are allowed. When the spawning season is over they leave the bay, but nobody has yet been able to say where they go. The life history of the Safety Bay schnapper is quite unknown, but what happens to the schnapper in the bay is only too well known to some people. About 40 or 50 years ago, some officer of the Fisheries Department was wise enough to make an effort to control the fishing of schnapper in the bay. I am told that 50 years ago Safety Bay teemed with schnapper. If one walked along the sand dunes and perhaps to Penguin Island, one would see piles of bones to testify to the truth of the statement that at one time innumerable schnapper were in the bay.

About 40 years ago J. and W. Bateman paid 1s. for a large schnapper, and two small schnappers were accepted as one large schnapper. From what I can gather the price of schnapper in those days was about 2d. a lb., so that a 7lb. schnapper could be bought for 1s. 2d. The sum of £10 per ton

was actually paid for schnapper by the firm I mentioned. The fish were smoked—this is the irony of the situation—and I understand they were shipped to the Far East for consumption by Chinese. This wonderful preserve was being destroyed in a wanton, wicked, and Hunnish manner in that way. I said that some wise officer of the department was responsible for taking measures to protect the schnapper in Safety Bay. In 1903 a regulation was framed which prevented fishermen from fishing in Safety Bay except for two hours in the morning and two hours in the evening. So plentiful were the fish then that, despite the short time allowed for fishing, thousands of schnapper were caught. In those days about 60 boats were fishing in the bay; to-day there may not be 30 boats. To describe the bay now as teeming with schnapper would, however, be too ridiculous for words. I can assure members that a person deciding to fish in Safety Bay to-morrow for schnapper would have to enlist the services of an experienced fisherman to get to the spot where one single fish could be caught. Every morning a gun was fired to indicate when these people might start their work, and at the end of two hours a gun was again fired to inform them when to stop. That was a very wise expedient, but unfortunately it lasted for only three years, at the end of which there was a return to the grab-all, open-go methods of the past. Those methods continued until last year when an endeavour was made to have the bay closed. That was done, but we found that by closing the bay we were depriving the fishermen of two-thirds of their total earnings; that is to say, they were depending on the schnapper for two-thirds of their income. I was present at a discussion held with the Chief Inspector of Fisheries and I take pride in mentioning that I suggested there must be one particular time during which the spawning of the fish was greatest. I considered that that period would be between the 1st October and perhaps the middle of November. I understand the department looked into the matter and decided that it was so.

If the fish were allowed to spawn unmolested and then were caught as they left the bay, not much damage would be done to this wonderful heritage of ours in Safety Bay. I refer to the schnapper in Safety Bay merely as an example; I think

the same would apply to herring or any other fish elsewhere. Safety Bay should be closed to fishing for six weeks; after that fishermen could be allowed legally to do what they liked. Apparently the fish go to other places where they are probably caught and eaten. Our duty is to make absolutely certain that these valuable waters are protected, so that once again there may be an adequate supply of fish to be taken for sale at a reasonable price here.

This year the bay was re-opened and 30 odd boats entered in search of schnapper. In order to catch the fish many of the boats—I cannot say how many, but a great number—used what we call set lines. In the parent Act the word “butlow”—a name strange to me—is used to describe a set line. Actually a set line is a long piece of stout cord or rope which runs into many fathoms and at distances of four fathoms, 24 feet, are suspended ordinary pieces of schnapper line with ordinary schnapper hooks. These set lines are fixed in such a manner that they float at either end and of course the baits are sunk in the middle. The fish come in and these set lines collect large quantities, varying according to the number that come by. When I remonstrated with some fishermen on the use of these lines, they told me they did not care two hoots about being fined £2 for using them, and they did not mind the Government confiscating the lines. They maintained that the actual value of one line for one decent day’s fishing in Safety Bay is £17 to £20, and consequently they could well afford to pay £2 fine and snap their fingers at the department—which they do.

Oddly enough, most of this fishing is done by unnaturalised aliens, who enter Safety Bay, set these lines, catch the fish there, and perhaps do not even go ashore. They pay no rent or rates and live entirely on their boats, using these lines and flaunting the fact in our faces. That is why I approve of the Bill and in this case do not think the penalties are high enough. The wickedness of the use of the set line is unbounded. On one occasion a few weeks ago the department collected three miles of these lines in that small bay. I know for a fact that a set line was put down opposite the passage to which I referred previously. It was set right across the passage and the incoming fish had to pass it. When the fish

are hooked, it does not mean that they come our way. Unless the fisherman is quicker than the sharks, the latter get the fish. If this colossal hooking of the fish takes place for only a short length of time, the schnapper become so frightened that they leave the bay and go elsewhere to spawn. It is not difficult to understand that in this way schnapper may be driven to another locality to spawn. The use of the set line is the most wicked practice indulged in by fishermen. Schnapper arrive in Safety Bay about the 1st of October and you will not catch one in those waters a week before Christmas. They come and go like clockwork. In their thousands they come in through “Tub” passage, and in thousands they go out. That is why I consider the use of set lines so wicked. Not only are set lines laid across the passage but they are actually drifted over the whole of the bay with a view to discovering the exact spot where the fish are spawning. It is not possible to go to any spot to catch the fish because they go to isolated portions of the bay. A set line indicates exactly where they are spawning. When the discovery is made, the fishermen will probably use a hand line.

I do not consider that handline fishing conducted legally and controlled by the department, is likely to affect the number of fish in Safety Bay. I do not think handline fishing anywhere is likely to deplete of fish the waters of our bays, but uncontrolled netting, set-line fishing and allowing fish to die on the beaches will lead to their being wiped out very quickly. We do not need to worry about holiday-makers. They do not affect the position in the slightest degree, but illegal methods of fishing must be stopped by the department and the House must do everything in its power to help the Fisheries Department to police our waters. This must be done. There can be no argument about that. We must do everything in our power to help the Fisheries Department as a scientific organisation capable not only of discovering the life history of our fish but also of putting forward legislation to save the fish from disaster. When the Bill reaches the Committee stage I shall have two small amendments to propose. I think I have explained the position at Safety Bay. I have suggested that the bay be closed for six weeks in each year. That would be important as a first step to discovering what other measures should be taken. The fish

have gone from that bay. The member for Wagin spoke about the fish having gone from the river. In some of the rivers in my electorate, people not only put a net across the mouth but also dynamite the fish. If that sort of thing is permitted to continue, we can get rid of our Fisheries Department and of all our legislation dealing with fisheries.

By this Bill the House is asked to help the department to police generally what I have explained, as a parallel, is occurring at Safety Bay. I have not spoken of Safety Bay as such; it is merely a picture of what is probably happening at every spawning ground in Western Australia, and Parliament must do something about it. This Bill takes into consideration the question of netting. It proposes that netting by private people be licensed. That is a very sound and proper provision which should be adopted. The Bill proceeds to deal with crayfish, but I am rather in the dark as to what is actually intended. I assume—the Minister might tell us in his reply whether I am correct—that crayfish of any size may be taken so long as they are not females. I hope my assumption is not correct and that the schedule will be amended to stipulate some size. Again I could tell a story of crayfish at Safety Bay. I have fished all along the reefs there. Fishing was my hobby, almost my sole occupation at the time, for I was there two years and had nothing to do but fish. I assure the House that when I went to that bay eight or ten years ago, we could take one crayfish trap, which we used to make ourselves, bait it and put it on the reef and next day could take anything from 40 to 50 crayfish from the one trap. To-day, if 100 traps were set, one would be lucky to get one crayfish out of the lot. That is what has happened to Safety Bay crayfish. The crayfish in Safety Bay are all of small size; I understand they are the youths, so to speak, of the larger crayfish caught further out. Those smaller crayfish, too, must be protected. I hope I have made the position clear. Let me conclude by saying that I personally wish the Fisheries Department all possible success in the big scientific fight lying ahead of it to save not only the asset value but the heritage value of the fish of Western Australia.

MR. FOX (South Fremantle) [7.54]: I cannot agree with everything said by the previous speaker. In the first place,

I disagree with the amount of the fine stipulated in the Bill. We are dealing with the poorest class of people in the community, and fishing is about the hardest job anybody could undertake.

Mr. Berry: I am trying to save the industry for them.

Mr. FOX: I have been to Safety Bay and seen the fishermen cast their nets and can appreciate the heavy work of pulling them out. Although I have done much hard work in my time, fishing is about the hardest work that one could undertake. In addition, it affords a very precarious living. I know dozens of fishermen in Fremantle—I have done a little business for them with some of the departments—and they have told me that throughout the year they do not average more than £2 10s. or £3 a week.

Mr. Holman: Then somebody else gets it.

Mr. FOX: In the season they make a little more and might even do fairly well, but taking the year as a whole and allowing for bad weather, they have a lean time. I was surprised to hear the member for Irwin-Moore say that if one of those men was convicted, his boat should be confiscated.

Mr. Berry: I did not say that.

Mr. FOX: If we are going to adopt that principle, let it be applied all round. If a licensed victualler is convicted once or twice, why not confiscate his hotel? If the principle is right as applied to the fisherman, it should be applied in other directions.

Mr. Berry: What about set lines?

Mr. FOX: If a fisherman's boat or net is confiscated, he is deprived of the means of gaining his living. I would much rather leave the question of the fine to be imposed at the discretion of the magistrate. If a fisherman appeared before the court on several occasions, the magistrate could increase the fine, provided he thought that course was warranted.

Mr. Thorn: Just as he does with the starting-price bookmaker.

Mr. FOX: I have nothing to say about the starting-price bookmaker, as he is not mentioned in this Bill. If Parliament conceded to the people in the country registered starting-price bookmakers—

Mr. SPEAKER: Order! The hon. member is not in order in discussing starting-price bookmakers.

Mr. FOX: I was replying to the member for Toodyay, who, I am afraid, led me off the track. Much has been said about the rivers being depleted of fish, but we should bear in mind that 40 or 50 years ago there were not so many fishermen. At that time there was any quantity of fish in the Swan River, but since then the bar across the harbour has been blasted away, sewage has been run into the river and a much larger number of fishermen is engaged in the industry. These are reasons for the depletion of the supply of fish.

Hon. C. G. Latham: And there were no shags on the river in those days!

Mr. FOX: I would not say that. Shags have voracious appetites, and if the department paid some attention to these destructive birds, the quantity of fish available might be much greater. One clause of the Bill to which I take exception is that requiring an accused person to prove his innocence. This is altogether wrong in principle and in Committee I shall vote against it. Another clause stipulates that a fisherman must give an account of the quantity of fish he has caught and the locality in which it was caught. We should also require him to state what he received for it, in order that we might ascertain what profit the wholesaler makes. That is another phase of the question to which the Government might devote some attention with a view to reducing the price of fish to consumers. Around the coast of Australia are thousands of miles of water teeming with fish. Although fish is a necessary diet, the price of it throughout the year is inordinately high, much too high for the average home. If greater facilities were offering, and fish could be put on the market at a lower figure, I am quite sure very much greater quantities would be consumed in this State. I intend to vote for the second reading of the Bill, but in Committee will oppose the clause providing for higher fines, and that which proposes that the person charged before the court must prove his innocence in order to save a conviction against him.

Mr. HOLMAN: I move—

That the debate be adjourned.

Motion put and negatived.

MR. HOLMAN (Forrest) [8.1]: The Minister is to be commended for bringing down this Bill. I am in agreement with very much of what was said by the member for Irwin-Moore (Mr. Berry) when he stated that it was time something was done to preserve our fishing grounds. In that respect the Bill does not go far enough. No doubt the magistrate is able to exercise his discretion in the matter of fines inflicted upon those who commit breaches of the Act. But the question is whether the magistrate does use his discretion. I venture to say the weight of evidence indicates that he does not do so. We know he does not use his discretion in favour of the Fisheries Department, because some of the fines inflicted for offences against the Act are ridiculously small. Night after night fishermen flout the Act, because the penalties are not harsh enough to deter them from doing so. It is quite right that the penalties should be made higher. I do not think the proposals go too far. Those who break the law know that they are flouting it, and when they understand that the penalties will be of a harsher nature they will think twice before they take the risk, especially if their fishing material is to be confiscated. One clause of the Bill provides that the material may be confiscated. The member for Albany intends to move an amendment to prevent the confiscation of the boat. I do not think these proposals are harsh. If the Bill is going to be amended to provide that the magistrate may use his discretion in these matters, it would be logical to apply the same principle to the department. There is more likelihood of the department having something in common with the industry than there is of a magistrate, who may not like fishing, having any sympathy with it. The magistrate perhaps knows that fish is a dear commodity, but may not think the volume of the fine will make any difference to that position. When it is a question of confiscation the department should be allowed to exercise its own discretion. Under the Act a magistrate has used very little power in respect to confiscation, either of the nets or other material. The fisherman who fishes illegally probably laughs at the magistrates, and continues his wrongdoing. The fish and game societies are deserving of every credit for what they have done for the industry in general and appear to support these amendments to the Act. I have been in-

touch with certain of the societies, and find they are in agreement with the provisions contained in the Bill. Those who have spent their time in an endeavour to foster the fishing industry, and to build it up where it has fallen away, as well as to place imported fish in our streams, are to be commended. Seeing that these societies support the Bill, we as laymen will not go far wrong by following their example.

The member for Irwin-Moore (Mr. Berry) gave an interesting history of Safety Bay. I believe his remarks would apply to many other parts of the coast, and our rivers. Recently the Brunswick Fish and Game Society approached the Minister, through me, to have certain estuaries closed so that experiments could be made, and the department assisted to secure certain data with regard to the spawning of fish. We had an interesting interview with the Minister, and some kind of understanding was arrived at whereby six estuaries would be named and three of them closed possibly for three years. During that period the intention was to see by experiment how the fish spawned, and endeavour to ascertain to what extent the numbers of fish increased consequent upon the closing of the estuaries. Unfortunately the estuaries have not yet been closed. Since that time the Bunbury estuary has been thrown open more widely than ever, and for a longer period. I understand that the estuary at Nornalup is in danger of being re-opened, if it is not re-opened now. The suggestion was made that if these estuaries were closed a number of fishermen would be thrown out of employment. Possibly the member for Murray-Wellington (Mr. McLarty) will agree with that, because of the large number of fishermen engaged at Mandurah. Several scores of fishermen are also engaged on the Swan River. In the estuary at Albany probably not more than nine or ten fishermen can be found, and at Augusta, which at one time was a great fishing spot but where the industry has languished considerably, probably not more than half-a-dozen men are fishing for a livelihood. At Nornalup no one has been employed, unless illegally, because the estuary there has been closed. To afford the department sufficient data in the experiment of closing these estuaries, three of them could be closed without causing much hardship to anyone. They need not be closed for a long time; but if they were closed for three

years, we might discover the cause of the depletion, and possibly learn that we are wrong and that the closing of the estuaries makes no difference. My opinion is that it does. I was interested to read in the Press recently of the argument proceeding in New South Wales, where the Chief Secretary has refused to open certain estuaries. His argument is slightly different from that of our department, in so far as he will not open the estuaries. Here in Western Australia we seem at present to be on the other tack, throwing open certain estuaries which have been closed or partly closed. The other argument advanced is, of course, that by closing estuaries we penalise the poorer people of the State, denying them cheap fish. I have yet to learn where cheap fish is obtainable.

Mr. Thorn: There is such a ring and combine.

Mr. HOLMAN: Probably if all the estuaries were thrown open, we would not get fish any cheaper. I have visited the markets occasionally and seen some of the foreign element congregating there. I have even noticed that the auctioneer's assistant, if he thinks fish is going too cheaply, nods his head. The question naturally is asked, where the extra cost between the producer or fisherman and consumer is going. Some of my constituents put the same query regarding potatoes. And so the thing goes on. Because we may have not sufficient potatoes this year, which fact makes them dearer, do we throw open more land? That argument, however, may not apply to the waters because we see that neither the closing nor the re-opening of estuaries has had any effect on the price at which fish reaches the poorer members of the community. The only time I have had cheap fish is when I have caught them myself. Nevertheless, sometimes it costs a good deal more to catch fish than to buy them. If certain waters were closed for the purpose of allowing the poorer members of our community to fish them in their holidays, there would be some sense in the proceeding, and some possibility of obtaining fish cheaply. The best and healthiest holiday a working man can get is to go to the seaside and catch fish. Instead, the fish are being depleted by set lines and other illegal methods, whereby the ordinary man is denied the pleasure of fishing. I only wish that in the Committee

stage I could move an amendment making it mandatory to close certain estuaries so that the department might be assisted in collecting data of which it is evidently in need.

The Minister said that the fourth point in this amending Bill is that it will assist the department in gathering additional information. I believe that the means I have suggested will assist the officers still further. An hon. member spoke of what happened 35 years ago in connection with fishing. I cannot go back so far: I was not fishing then. However, I am beginning to wonder what will happen when I can rise here and from my brief experience of fishing, state that I have seen the difference. Even in the Swan River there is a tremendous difference, and similarly throughout the coast. I do not exactly blame the member for South-Fremantle (Mr. Fox) for speaking on the subject as he did, since in one way he represents some fishermen, though I do not know how many of those fishermen are entitled to vote.

Mr. Fox: That is a rotten thing to say—that I am out to catch votes. It is just the sort of thing you would say. I would poke the hon. member under the eye as soon as look at him.

Mr. SPEAKER: Order!

Mr. HOLMAN: I apologise for the statement if the hon. member objects to it.

Mr. Fox: That sort of thing may be in your line; it is not in mine.

Mr. HOLMAN: I wish to apologise if any such inference was drawn. I did not mean my remark in that way.

Mr. Fox: Well, say what you mean.

Mr. HOLMAN: My meaning was in regard to the inland districts. The only enjoyment some of the residents there have is to go to the seaside to obtain a little fishing. For that reason members representing inland constituencies should give the proposed amendments their full support. In that way we shall be able to give the inland people a decent go when they visit the seaside resorts. The small wages received by fishermen have been mentioned. Certainly those wages are not comparable to the high prices paid by consumers of fish. There must be a leakage somewhere. I should be only too pleased if some inquiry were made into that aspect. The provisions dealing with the fish and game societies are what the societies have

been in need of for some time. Let us give them the recognition they require. It is one thing for a body of people to get together and try to do something for the fishing industry, and it is another thing for them to obtain recognition of the work they do. In the past the Government has recognised these societies by granting them subsidies, and has also acknowledged the parent body. The amendments proposed, however, will afford individual societies the recognition which is their just due. I may have some further remarks to make during the Committee stage. I commend the Bill to the House, and I consider that the Minister is to be congratulated on bringing it forward.

MR. McLARTY (Murray-Wellington) [8.18]: I do not doubt that the parent Act is in need of amendment, after the lapse of 25 years. Reading through it I noticed that it makes provision for preventing people from using fish as manure. I know that in the early days that did happen in certain parts of Western Australia. Natives used to catch cartloads of fish and exchange it for tobacco. The farmers who took the fish then used it as fertiliser. This indicates how plentiful fish were in those days. However, I take it that the early settlers of Western Australia and those who followed them have all played a part in depleting our waters of that abundance of fish they once contained. The Bill is apparently divided into two main parts. One main part deals with fish acclimatisation, the stocking of the streams in the South-West with trout. Here let me pay a tribute to the Fish Acclimatisation Society for the excellent work it has done. I understand that the member for Nedlands (Hon. N. Keenan) was one of the founders of that society. I know that throughout the South-West, as the member for Collie (Mr. Wilson) and the member for Nelson (Mr. J. H. Smith) are well aware, societies are operating and doing wonderful work in stocking the fresh water streams with trout. I also know that those interested in the work travel many miles to attend meetings to further the interests of trout acclimatisation. They are very enthusiastic and give their time willingly to the work without seeking monetary recompense. Their hearts and souls are in the task and certainly the stocking of our streams is giving pleasure to those who are interested in the sport and will do much

to encourage the tourist traffic. I am glad to be able to report that in many of our streams in the South-West trout seem to be breeding rapidly. In some of the rivers in my electorate large numbers are to be seen in shoals. I have been told that they have been seen in shoals aggregating upwards of 500 and two or three shoals have been seen at a time. Unfortunately I have known instances where the fish have congregated in pools and when the streams have dried up they have not lived.

Provision is made in the Bill that ten persons shall constitute a society. I think that number is reasonable, but I suggest to the Minister that he should not make any particular district too large. The more fish and game societies there are, the more enthusiasm will be created. I am sure that as a result of the passage of the Bill a large number of people throughout the South-West will be anxious to render assistance in the work of trout acclimatisation. The Bill seeks to enable each society to frame its own rules which, however, have to be submitted to the Minister for approval. I think it would be better if the Fisheries Department were to draw up a set of rules for submission to the various societies. That would make it easier for those bodies which, in all probability, would adopt them. However, it is a step in the right direction and, with the help of this legislation, together with the enthusiasm displayed by the various fish and game societies, I am sure that the streams in the South-West will abound in trout and tourists will be given encouragement. I take this opportunity to express my gratitude to the Premier for the help he has been able to provide. With the member for Collie, I interviewed him some time back with the object of securing financial help for the societies. While the Premier was not able to make available all the help that we desired, the assistance he did render has been greatly appreciated. Dealing with the other phase of the Bill, which treats of the fishing industry generally, I am inclined to agree with the member for South Fremantle (Mr. Fox) that the fines mentioned in the measure are rather severe.

Mr. Thorn: They may cause international complications!

Mr. McLARTY: The member for South Fremantle was right when he described the fishermen as a struggling class. I have a

large number of them in my electorate where they fish in the Murray and Harvey estuaries. One has only to think of their work to realise that their life is hard. They are out all night in all sorts of weather. Very often they do not obtain many fish. One of the faults I find with the control of the fishing industry is that too many licenses are issued. I suggest to the Minister that if an unlimited number of licenses is issued, too many men will be found fishing in certain waters. That is what happened in the Murray and Serpentine waters. It tends to lead to illegal fishing in closed areas. I would like provision made in the Bill to limit the number of licenses granted for fishing. Then again, the introduction of the foreign element is another difficulty, and certainly the foreigners have a very strong hold on the industry. I suggest that no license should be issued to a foreigner who is not naturalised.

Hon. C. G. Latham: Would you now apply that to Greeks?

Mr. McLARTY: I fully appreciate the difficulties of the Chief Inspector of Fisheries with regard to netting in closed waters, and I know of no other way of helping him than by appointing additional inspectors. Certainly we will not help him by making the penalties more severe. I do not think the maximum penalty provided in the parent Act is often imposed. I disagree with the member for Forrest (Mr. Holman) who said that magistrates had not the power required to enable them to confiscate nets. The Act already provides the power necessary to enable a magistrate to confiscate boats, nets and everything that is taken.

Hon. C. G. Latham: Even the character of the defendant.

Mr. McLARTY: If the Minister were able to provide additional inspectors, and not increase the amount of the fines, he would do more to assist the Chief Inspector to administer the Fisheries Act than he will accomplish by merely making the penalties heavier. I have heard many people in the South-West, particularly those interested in fish acclimatisation, express gratitude to the Chief Inspector of Fisheries for the enthusiasm he has displayed in his work and for the encouragement he has

been able to extend to those interested in trout acclimatisation. With the advantage of the amending legislation, he will be able to do more in that direction.

MR. J. H. SMITH (Nelson) [8.30]: I do not propose to say much on the Bill, of which I approve to a great extent. I am pleased the Government has seen fit to bring down legislation dealing with trout fishing. One objection I have to this measure is the provision for fines. When we reach the Committee stage, I hope the provision with regard to the minimum fine will be amended. Some person in all innocence might commit a small breach of the Act and the magistrate, under the Bill as it stands, would have no option but to fine the lawbreaker a sum of £5. I am not now referring to commercial fishermen, but to those who fish for sport. We all know that men on holidays who decide to go fishing take a little net with them. In my experience, that is the only way to catch fish. The matter of the fine should be left to the discretion of the magistrate. He should be able to let a man off with a caution or fine him 1s., or such amount as he considers adequate. The Leader of the Opposition suggested that the Chief Inspector would, under the measure, be given too much power with regard to the confiscation and disposal of nets. I do not share that opinion. I think the Chief Inspector should have all the powers proposed to be conferred upon him by the Bill.

With regard to trout hatcheries, I think the first was established at Pemberton by a schoolteacher—Mr. Glew—and Dr. Abbott. From Pemberton, the hatcheries have spread over the whole of the South-West. To-day Collie is a great rival of Pemberton. I sincerely hope that these hatcheries will result in the attraction of tourists to this State. The creeks at Pemberton are teeming with trout to-day, as are the streams at Collie and in other parts of the South-West. I doubt whether the Murray River and the Blackwood River will ever prove suitable for trout, although trout may become acclimatised in some of the streams leading into the Blackwood River. The societies which have been formed for trout acclimatisation have been working on the right lines and we have reason to be grateful for the excellent results they have achieved. Some 30 years ago I put perch in some of our rivers in the South-West, including the Blackwood

and Warren Rivers. I go perch fishing each year, but have had to travel 60 miles further up stream from the point at which I put the perch in. Trout have the same tendency to work upstream.

Another provision that should be amended in the Committee stage is that which places the onus of proof upon the defendant. In my opinion, that is wrong; the prosecution should have to prove a breach of the Act. No doubt that provision will be amended.

I am pleased the Government has brought forward this proposed legislation. I am also pleased that it is proposed to place legislation on the statute-book dealing with trout fishing, as this should prove to be a great boon to the State, because it will attract many tourists. In conclusion, I desire to add a word of praise to the acclimatisation societies. As I have said, they have done excellent work. Many members of the societies have given their services freely and disinterestedly, their desire being to make our State more attractive to tourists. Many of them who have expended their own money on hatcheries will have no chance of catching trout. Many fishermen visited Pemberton last season and were successful in catching trout in the creeks, brooks and rivers. Much fine sport and a great deal of pleasure await anglers there.

MR. HILL (Albany) [7.36]: I support the Bill. The State is fortunate in having an able Chief Inspector of Fisheries. He is doing his best for our fishing industry and also for fishing as a tourist attraction. In my electorate we have two classes of people; one class wishes to have only closed waters, the other wants no closed waters at all. The fisheries inspector, a fair man, is trying to do his best for the State, and this Bill will help him to discharge his duty more effectively. In my opinion, he should be given wide powers, but at the same time these should be used with discretion. Some of the clauses of the Bill are too drastic; members will note that I have already one amendment on the notice paper. A previous speaker referred to the necessity for additional policing. That is absolutely essential in my electorate, where we have 120 miles of coastline, with several closed areas. It is obviously impossible for one man to police all those closed areas. On occasions, poachers go to those areas in motor trucks with nets and absolutely sweep the inlets

until no fish are left in them. I have no time for such people; no penalty is too great for them. But there are other people who fish in closed waters; in fact, I could tell members a great deal about this. I recall that some years ago I was present with the member for Guildford-Midland (Hon. W. D. Johnson) when some settlers requested permission to fish in closed waters. The department had taken the attitude that it could not make one law for the settlers on the river bank and another law for the general public; but I remember that the Minister for Works—as he then was—said, “If I lived here I would catch fish.” I shall not tell members where that place is. I do not look upon people who catch a few fish for their own use as serious law breakers; they are in a different class altogether from the poachers to whom I have referred; these should be severely dealt with. I hope the Bill will pass the second reading and that the Government will be able to appoint additional inspectors.

MR. WITHERS (Bunbury) [8.38]: I support the Bill. Undoubtedly, people hold different views with regard to fishing. The line fisherman has his grievances, while the net fisherman has his vicissitudes. I have sympathy for the net fisherman, whether he be foreign or otherwise. I do not see too many Britishers taking up fishing for a livelihood. It is generally left to people who understand it, who were trained in the country from whence they came. As the member for Murray-Wellington (Mr. McLarty) pointed out, these men go out at all hours and in all weathers and therefore are entitled to some consideration.

Mr. Seward: Is there no fishing in England?

Mr. WITHERS: We do not see many English fishermen on our coast. There is ample scope in the industry for our own people, but nevertheless—as I said—it is the foreigner who undertakes the work here. Probably fishing is much more pleasant in England than it is on the Australian coast.

Mr. McLarty: All the fishermen in the Murray district are British.

Mr. WITHERS: That is not so in my electorate. A few are British, but they are in the minority. I do not envy the man who takes up fishing for a living. That is entirely different from fishing for sport, when a man catches a few fish to eat. He

often cannot buy those fish, not even in a place that is termed a fisherman's paradise. It is sometimes almost as hard to get fish in such a place as it is where fish cannot be caught. I agree that the fines should be increased. If, under an Act, people are licensed to do certain things and are prohibited from doing other things, and they break the law, the penalty for such breaches should be sufficiently heavy to deter them from repeating the offence. I had my attention drawn only recently to one man who has been fined five times within a short period. On the last occasion he was fined less than on the previous occasion. The fourth time he was fined £2 and for his last offence a penalty of only £1 was inflicted. If when he is on his way home a man sees a shoal of fish in closed waters and considers the fish will be worth £10, he is likely to run the risk of being caught and fined £1; but if he knows the penalty will be severe, he will not be so likely to break the law. That is why I agree that heavier fines should be inflicted.

People who have to pay license fees are entitled to some consideration. I do not know where the fees go but for some years there has been an agitation in Bunbury for the erection of a fisherman's landing jetty. The construction of such a jetty appears to be nobody's responsibility. The municipality could not spend money out of municipal funds to erect a jetty on Government property even if it wished to do so; the Bunbury Harbour Board has no authority to construct one; and apparently up to date the Government has not seen fit to do so. For some months the department has been in possession of a letter from me in which I asked whether some convenience could not be provided for the people in Bunbury who engage in deep-sea fishing. These fishermen go south of Bunbury to make their haul by hand line. They cannot take their fish to Bunbury because there is no landing jetty. Their home fishing quarters are at Bunbury. There they obtain their provisions, and they take their boats to the harbour for shelter from the rough weather. In spite of that they have to go to Fremantle with their haul because of the absence of a landing jetty in Bunbury. If such a jetty were provided, they could dispose of their catch and return for another haul in the same time taken to travel to Fremantle to discharge their load. Moreover, the Railway Department would reap a benefit by way of freight on the fish sent

from Bunbury to Fremantle. I made that suggestion to the Government in 1938, when I asked that assistance should be given to these people. They are professional fishermen who make their living from the sea, but they are entitled to some consideration in return for the license fees they pay.

There are arguments for and against the closing of estuarial and other fishing grounds. I am not a professional fisherman but, like the member for Murray-Wellington (Mr. McLarty), I can remember the time when fish were caught with a net, not for sale but for placing around fruit trees and putting in manure pits, in order to provide a supply of manure for gardens.

Mr. McLarty: I did not say I remembered that.

Mr. WITHERS: I can remember it. I have seen fish brought in boat loads and used for manure. I have seen raw fish put around fruit trees. Those were the days when, with a 3-inch mesh net, fishermen could sink a flat-bottomed boat in one haul. Where the fish have gone, I do not know, but at the time of which I am speaking—nearly 50 years ago—the population was very small. By comparison the population of Western Australia to-day is huge. Consequently there are more fishermen and the fish have become scarce. Nevertheless, I believe there are still plenty of fish in the sea; but proper supervision of fishing is required. I sympathise with the Chief Inspector of Fisheries and more so with his staff of inspectors who have huge areas to traverse in order to police closed waters. The inspector in my electorate has to travel many miles and while he is in one area the fishermen can play havoc in closed waters in another area. If they knew that the penalties for a breach of the law were much more severe than they are, they might be less inclined to break the law. There has been a controversy in my district because the department has permitted a longer fishing period. Fishing is now permitted from Monday to Friday instead of, as formerly, from Tuesday to Friday. Actually, net fishermen are allowed to fish a day and a half longer than previously and the line fishermen are concerned about it. I discussed the matter with the Chief Inspector and his officers and they convinced me, from their long experience as experts, that it will be beneficial and not detrimental to allow net fishing to take place over the longer

period. I support the second reading of the Bill though I may not agree in Committee with all the clauses.

THE MINISTER FOR THE NORTH-WEST (Hon. A. A. M. Coverley—North-West—in reply) [8.46]: I thank hon. members for the reception accorded the Bill. I did not expect the House would agree word for word with the measure but I hoped that I would be able to induce members to change their views when the Bill was considered in Committee. As a result of the speeches that have been made, I realise more than ever the necessity for an alteration of the Act. Some members who raised objections began by saying that in their opinion the fines were much too heavy. The Leader of the Opposition expressed the opinion that the imposition of penalties should be left to magistrates. The Act was passed in 1905, so that the department has had 35 years' experience of what has happened with magistrates having the right to impose fines. As I intimated during my second reading speech, many fishermen have been before the court time and time again. The same fact has been stressed by other members. The member for Bunbury (Mr. Withers) gave a very good instance of what would continue to happen if the penalty for illicit fishing were left as at present. As he pointed out, it pays a fisherman to cast a net and make a haul which he can sell for £10, inasmuch as if he is unlucky enough to be caught, the most that will happen is that he will be fined 10s. and have his net confiscated. If the minimum penalty for a first offence were £5, the fisherman would hesitate to cast his net illegally. Parliament will do well to give the measure a trial. If the House agrees to allow the department to have this power for the time being, the law can easily be altered if members representing districts where illegal methods of fishing are adopted can convince the rest of the Chamber that the penalties inflicted have occasioned great hardship. I am not concerned because I do not represent the fishing industry, but I cannot agree that we should give protection to people who break the law. The member for South Fremantle pointed out that by confiscating a man's boat or gear, we would be depriving him of the means of livelihood. We have many laws on the statute-

book with penalties having the same effect. If a taxi driver breaks the law and his driver's license is cancelled, he is deprived of his means of living. We do not complain that that law is too severe. In fact, I think most members agree that if a taxi driver is convicted of driving while under the influence of liquor, his license should be cancelled.

Mr. Watts: That is left to the discretion of the magistrate.

The MINISTER FOR THE NORTH-WEST: We have trusted to the discretion of the magistrate in the matter of penalties under the Fisheries Act for 35 years—

Mr. Watts: In the Traffic Court the matter is still left to the discretion of the magistrate.

The MINISTER FOR THE NORTH-WEST:—and the experience of the department is that some more drastic penalty is necessary. Otherwise we would not be asking for it. The Leader of the Opposition spoke of the disposal of confiscated gear, and thought we would be giving too much power to departmental heads if they were permitted to dispose of the gear. There is no intention of allowing officials to dispose of confiscated gear of their own free will. Under the Act, confiscated gear must be sold by tender under the authority of the Tender Board. Members, however, can visualise that some of the gear confiscated is mere rubbish. Probably in nine cases out of ten a fisherman, realising that he is about to be caught, tears up the net in such a hurry that, when seized, it is practically useless.

Mr. Seward: Then why not complete the destruction instead of selling the net?

The MINISTER FOR THE NORTH-WEST: That is what the Chief Inspector suggests. A badly damaged net could be burnt, and then the Government would not be put to the expense of advertising for tenders in the "Government Gazette" and getting no bid for the net. There is another reason for this provision. As members realise, much activity in the fishing industry is expected from the C.S.I.R. Nets and other gear confiscated by the department can be used by the officials in their experimental work, and so we intend to make any suitable gear that is confiscated available for departmental use. Many yards of net have already been given, with the permission

of the Minister, to the military authorities, who recently have used it extensively for certain purposes that I will not mention. Thus there are several reasons for desiring the power to dispose of confiscated gear, rather than being obliged to submit it for sale by tender through the Tender Board.

A matter commented upon by several members was the onus-of-proof clause. The Leader of the Opposition said he could not understand a responsible Minister introducing such a provision in a Bill of this sort. Possibly I have some figures to show how I have cast my votes when other legislation including such a clause has been before the House. I have voted both for and against but when I have voted for it, I have done so only because I considered it necessary in the particular measure under discussion. In general and on principle, I do not approve of the onus-of-proof clause being resorted to. Members will concede that the law we are now dealing with is one of the hardest to enforce if the proof has to be supplied by inspectors of the department. An inspector might see a man illegally fishing in closed water and using boat and net but that would not be accepted as proof by the court, and to get a conviction in such a case would be impossible. The accused might tell the magistrate that he was merely idling about, enjoying the sea breeze and having a smoke. The inspector must actually see the fish being taken from the water, and thus it is fairly difficult to get the requisite proof. If the House does not approve of this provision, we would need an army of inspectors who would have to await opportunities to detect people in the act of illegal fishing, and if we appointed an army of inspectors, the cost would have to be borne by the taxpayers. Rather than allow the department to continue incurring the hostility of people interested in the fishing industry—local road boards, yacht clubs, fish and game societies and individual fishermen, who have been complaining of the lack of action on the part of the officials—the House should agree that this is a measure in which the onus of proof should be placed upon the accused. I hope that that power will be conceded.

Those were the main points raised in criticism of the Bill. The member for Irwin-Moore said he did not quite understand the clause referring to female crayfish. Under the Act we allow crayfish to be taken for sale according to weight. Under the Bill

we propose to alter the procedure and prescribe that crayfish may be taken for sale by measurement. That point will be explained in Committee. One member, referring to the trout acclimatisation societies, said that much good had been done by the Fish and Game Society and the name of a certain gentleman was mentioned—Mr. Glew. The Fisheries Department agrees. The officials realise that much credit is due to the society and to the people responsible for bringing the trout hatcheries to the stage they have reached. We appreciate all that is being done for the trout hatcheries by the society and much credit is due to Mr. Glew. I do not like to single out individuals, but on behalf of the department I should like to pay a tribute to the late Mr. J. MacCallum Smith, who also gave the Fish and Game Society much assistance, financial and otherwise.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Withers in the Chair; the Minister for the North-West in charge of the Bill.

Clauses 1 to 3—agreed to.

Clause 4—Insertion of new section after Section 7. Inspector may requisition boats, etc.:

Mr. BERRY: I move an amendment—

That in line 3 of Subsection (1) of proposed new Section 7A, after the word "any" the words "engine or" be inserted.

This clause would give the inspector the right to commandeer any boat in the performance of his duties. That is right and proper. This provision, however, should go further and permit him to commandeer, say, a motor boat to enable him to go where it would be too rough to go in a rowing boat.

The MINISTER FOR THE NORTH-WEST: I do not oppose this amendment, because the person whose motor-boat might be commandeered would be compensated for the use of it.

Amendment put and passed; the clause, as amended, agreed to.

Clauses 5 to 7—agreed to.

Clause 8—Amendment of Section 16 of the principal Act:

Mr. BERRY: I move an amendment—

That in line 4 of proposed new Subsection 1 the words "if so required" be struck out.

The proposed new subsection provides that anyone who catches fish for commercial purposes shall make a return monthly, if so required, indicating the quantity and kind of fish captured. It would not be a hardship to compel fishermen to furnish such a return, and, if these words were struck out, that is what would happen.

The MINISTER FOR THE NORTH-WEST: The amendment will probably improve the proposed new subsection, and I am in agreement with it.

Amendment put and passed.

The CHAIRMAN: The words "as and when required" will also be struck out, as a consequential amendment.

Clause, as amended, put and passed.

Clause 9—agreed to.

Clause 10—Amendment of Section 22 of the principal Act:

Mr. McLARTY: I hope the Minister will agree to leave the fines as they are in the Act. Fishermen tell me that at times it is difficult for them to gauge the size of the fish when they catch them. At night fish appear to be all right, but when they have been boxed and sent to market, they may be found to be under-size. If undersized fish are marketed, the whole catch may be confiscated. In addition to the loss of the catch, fishermen will, under this provision, be liable to a monetary penalty. I do not think they attempt to catch under-sized fish with the object of putting them on the market, because they know well what will happen when the small fish are exposed for sale. I oppose the Clause as it stands.

Mr. ABBOTT: I support the clause as it stands, because, as the Minister says, long experience has shown that these fishermen will take a risk. They are experts in their own business, and it is not difficult for them to recognise undersized fish. Unless penalties are reasonably substantial, they will not act as a deterrent.

The MINISTER FOR THE NORTH-WEST: I hope the clause will pass as printed; it is one of the most important provisions of the Bill. The present penalty is not severe enough. The member for Murray-Wellington seems not to be aware that there is a ready market for undersized fish, particularly at the Zoo.

Mr. McLarty: Surely the Zoo authorities would not foster an illegal practice!

Mr. FOX: I oppose the clause. If, as the Minister states, there is a sale for undersized fish at the Zoo, it is a crying disgrace that a semi-governmental institution should be permitted to buy such fish.

The Minister for the North-West: The Zoo is not the only market for them.

Mr. FOX: My experience is that fishermen try to get rid of small fish by emptying their nets in about a foot of water. They agreed to do this in order to prevent the killing of small fish caught in the nets and seaweed. It is in the fishermen's interests that small fish should not be brought to market, and they recognise that. The penalty proposed is altogether too high.

Mr. BERRY: Either we are going to protect our fish or we are not. If we protect a natural heritage by protecting undersized fish, then we should protect undersized fish. I have been mixed up with fishing as a hobby all my life, and I know quite a lot about Italian fishermen. I am friendly with them, and go out with them. They have given me some of the best fishing I have ever enjoyed. It is on their behalf I am speaking. The fisherman's lot is made harder in the West because year after year the fish are being depleted. The fishermen have asked me to get certain waters protected in order that the fish may return. Severe penalties are not a disadvantage to the industry. Fishermen know when they have small fish and put them in the box to be sent to market.

Mr. McLARTY: The Act provides that if a fisherman sends one-twentieth of small fish in a box or case, the box or case is condemned or confiscated. That fact shows how stringent the Act is in regard to undersized fish. Once again I appeal to the Minister not to insist upon the clause. The Act as it stands affords sufficient protection.

Mr. PATRICK: As regards paragraph (b) of the clause, how does the new system work in the case of crayfish? Dongarra fishermen have been much concerned during the last few years at the department's action in threatening prosecution for taking what the officials call undersized crayfish. Dongarra crayfish are well known to be much smaller than any other species in the State, and in fact do not grow to the size at which the department says they may be taken. The local inspector is new in the

district, and does not understand the conditions. Weight might be substituted for a specified size. How will paragraph (b) work out with the Dongarra crayfish?

The MINISTER FOR THE NORTH-WEST: It will not make any difference. The parent Act permits fishermen to take crayfish of a certain weight. If the proposed amendment is adopted, weight would be replaced by a measure. Under the present system a set of scales has to be carried around. Under the amendment a tape measure would be used.

Clause put and passed.

Clauses 11 to 15—agreed to.

Clause 16—New sections:

Mr. FOX: I shall move to delete the clause.

The CHAIRMAN: The hon. member cannot do that. He will vote against the clause.

Mr. FOX: The clause includes two proposed new sections, the first of which refers to a person charged with possession of fish taken in contravention of the Act being liable to a penalty. It is contrary to the principles of British justice that a man shall be regarded as guilty before he is convicted. Many of us have in our possession various articles respecting which, if we were asked to say how we obtained them, we could not give a reasonable account of how they came into our possession.

Mr. Thorn: You speak for yourself!

Mr. FOX: I do, and I dare say many members of this Committee could easily be placed in that position.

Mr. Sampson: There is a serious admission.

Mr. FOX: This matter has been debated many times in this Chamber and I hope members will delete the provision from the Bill.

The MINISTER FOR THE NORTH-WEST: I hope the Committee will not delete the clause. As to the principle referred to by the member for South Fremantle, I have on various occasions voted both for and against such clauses. Each should be dealt with on its merits. If such a clause should be embodied in a measure, it should surely be incorporated in one framed for the protection of the fishing industry. Unless such a provision is included in the Bill, the obligation would be cast upon inspectors to catch fishermen in the actual

act of contravening the law. That would necessitate the appointment of an army of inspectors. No Government would place such a burden upon the taxpayers. Local governing bodies, fish and game societies, individual anglers and others have all complained that the department has not enough inspectors adequately to police the industry, and that the penalties imposed are not severe enough to discourage illegal practices. The adoption of the clause as it stands will afford the department an opportunity to frighten those who are continually breaking the law.

Mr. BERRY: The clause includes a safety valve in that fish in the possession of the individual must reasonably be suspected of having been taken in contravention of the Act. That will be availed of in cases where, for instance, an inspector can see men fishing in the bay, can watch the men land and then require them to explain their possession of fish. The Minister is quite right in his contention.

Mr. WATTS: I am not prepared to vote against the clause as a whole, because proposed new Section 35B is quite reasonable. If the member for South Fremantle desires to deal with the point he raised, he could move to delete the proposed new Section 35A.

Mr. FOX: I move an amendment—

That proposed new Section 35A be struck out.

Mr. SAMPSON: If the amendment be agreed to, I would like to know how the Minister will obtain a conviction.

Mr. Watts: He has obtained a good many within the last 30 years without it.

Mr. SAMPSON: It would be quite impossible to have an inspector in every fishing boat, and surely it is not unreasonable to expect a fisherman to explain his possession of undersized fish. The magistrate will give due consideration to his explanation.

Mr. FOX: The only way by which convictions can be obtained is to increase the staff of inspectors, of whom we have not enough at present. By increasing the number of inspectors, proper supervision of the industry will be possible. If the industry is of such importance, I hope members will stress the necessity for the appointment of additional inspectors, and I trust the Minister will give consideration to that phase.

Amendment put and negatived.

Clause put and passed.

Clause 17—Repeal of Section 37. Engines, nets, etc., of offenders may be forfeited:

Mr. HILL: I move an amendment—

That in line 1 of Subsection 1 of proposed new Section 37, after the word "articles," the words "but not including any boat" be inserted.

If the confiscation of a boat were ordered, the penalty would be too severe. The present Act makes the power to order confiscation permissive.

The MINISTER FOR THE NORTH-WEST: I do not oppose the amendment, although in my opinion it will not improve the Bill.

Amendment put and passed; the clause, as amended, agreed to.

Clause 18—Amendment of Section 37A. Repeal and new section:

Mr. WATTS: Is it necessary to substitute the proposed new section for the existing provision? The new section appears to be more cumbersome than is the existing provision. Will the Minister explain the virtue of the new section?

The MINISTER FOR THE NORTH-WEST: The proposed new section provides that if a boat or a net has by accident drifted into closed waters, it shall be declared confiscated, but the magistrate can hear evidence from the owner of the articles to prove that they got into the closed water accidentally. The magistrate could, if he found the case proved, order the articles to be returned to the owner. That provision is not included in the existing section.

Clause put and passed.

Clause 19—New section:

Hon. C. G. LATHAM: The power which this new section proposes to confer upon an inspector is an extraordinary one. I think the provision should be amended by striking out the words "or dispose of."

The Premier: Could not the inspector give the fish to a charitable institution if he could not sell it?

Hon. C. G. LATHAM: I am not referring to fish, but to the articles mentioned in the proposed section, namely, boats, nets, lines, engines, etc.

The Premier: You would not destroy them?

Hon. C. G. LATHAM: No. The inspector could sell them. The section provides that he may sell or destroy them.

The Premier: But the inspector is subject to the control of the Minister.

Hon. C. G. LATHAM: No. The Minister is not going to be worried about half a dozen fish that might come into the inspector's possession. The man who would be interested in them would be the keeper at the Zoo who looks after the seals.

The MINISTER FOR THE NORTH-WEST: I admit there ought to be some supervision over the disposal of these goods. As the Committee is aware, any goods seized in this way must be sold through the Tender Board. Quite a lot of net seized is useless: on the other hand, much is useful and can be utilised by the department for experimental purposes, particularly in view of the activities which we hope will take place before long in the fishing industry through the C.S.I.R. The object of the proposed new section is to do away with a lot of red tape now unavoidable, because—as I said—these seized articles must be sold through the Tender Board.

Mr. SAMPSON: The Chief Inspector of Fisheries is a responsible officer and is not being given excessive power under this clause, which should be retained as it stands. I do not think the Chief Inspector will improperly dispose of any of these articles.

Hon. C. G. LATHAM: I move an amendment—

That in line 2 of proposed new Section 37B the words "or dispose of" be struck out with a view to inserting the word "destroy."

The MINISTER FOR THE NORTH-WEST: I do not know that the amendment will overcome the difficulty. I admit that we are giving the Chief Inspector wide powers, but only in respect to fishing gear and that kind of thing.

Hon. C. G. Latham: Boats are mentioned as well.

The MINISTER FOR THE NORTH-WEST: The department can and will make use of a lot of this gear. With the consent of the Minister, some nets have been given to the military authorities for experimental purposes, and we desire to be able to dispose of these articles in such ways as that. I think the hon. member would

achieve his object if he moved to insert after the word "may" in line 1 the words "subject to the approval of the Minister."

Hon. C. G. LATHAM: I would not mind if boats, engines, implements, appliances and other articles were not included.

The Premier: You would not want valuable property destroyed?

Hon. C. G. LATHAM: By the amendment, the goods could be sold or destroyed. The Minister has said he wants the inspector to have authority to keep a certain amount of the material for the department to make use of. The clause will not give him that authority. Under the clause the Chief Secretary must sell or dispose of it as he thinks fit.

The Minister for the North-West: Giving it to the Defence Department would be disposing of it.

Hon. C. G. LATHAM: We are custodians of the public's property. We may give away material that belongs to ourselves, but we must be careful when handling someone else's property. A chief inspector could obtain possession of a quantity of gear and give it away to somebody in return for something for his own use. I am not referring to the present occupant of the position, but I am thinking of future chief inspectors. We do not know who will occupy the post. If the Minister will undertake to look into the matter and have an amendment framed for consideration in another place, I shall be satisfied. The Minister has no right to ask Parliament to pass the clause as it stands. I ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr. RODOREDA: I am inclined to agree with the Leader of the Opposition that there is a principle involved. It is not right for this House to delegate to any civil servant authority to sell or in any way dispose of property that rightly belongs to the Government. If the Act is enforced, the department will gain possession of many boats, engines and appliances of all sorts and I object to giving the Chief Inspector permission to sell any of these articles on his own initiative and without reference to anyone at all. I would be quite prepared to give this authority to the Minister, because the Minister is responsible to the House for his actions. I suggest that the clause should be amended by inserting after

the word "may" in line 1 the words "subject to the approval of the Minister" and by the deletion of the words "in such manner as he may think fit." If that were agreed to, the Chief Inspector would have to secure the approval of the Minister before selling, destroying or disposing of property in any other way. That would not impose undue hardship on the Minister or the Chief Inspector. I move an amendment—

That in line 1 of proposed new Section 37B after the word "may" the words "subject to the approval of the Minister" be inserted.

MR. SAMPSON: The amendment will not improve the clause. Imagine the Minister's being called up at 2 a.m. or 3 a.m. about some fishing gear at Mandurah or Safety Bay! The Chief Inspector is under the Minister and could decide what should be done with confiscated gear. We cannot expect good service from officials if we require the approval of the Minister in such circumstances. Further, the Minister should not be burdened with such detail.

MR. J. HEGNEY: The argument of the member for Swan does not impress me. I agree with the member for Roebourne. The Chief Inspector's action should be subject to the approval of the Minister.

Amendment put and passed.

MR. RODOREDIA: I move an amendment—

That in line 2 of proposed new Section 37B the words "in such manner as he may think fit" be struck out.

This amendment is requisite in view of the amendment already agreed to.

Amendment put and passed; the clause, as amended, agreed to.

Clause 20, Title—agreed to.

Bill reported with amendments.

BILL—HARBOURS AND JETTIES ACT AMENDMENT.

Second Reading.

Debate resumed from the 22nd October.

MR. SAMPSON (Swan) [9.55]: This Bill indicates a remarkable position. In 1928 the State Parliament passed legislation to amend the law relating to the liability of

owners of ships for damage to harbours and jetties and works connected therewith. Clause 2 stated—

The owner of a vessel and the master of a vessel shall be answerable under the provisions of the Acts set out in the schedule to this Act for any loss or damage caused by the vessel, or by any fault in the navigation of the vessel, notwithstanding that the vessel was in charge of a pilot and that pilotage was compulsory, unless it is proved by the owner or by the master that the damage was caused by the negligence of the pilot.

That was perfectly reasonable and no one could object to it. Loss or damage could not be claimed if it was due to the negligence of the pilot. The next step in this remarkable story appears in Section 43 of the Navigation (Maritime Conventions) Act of the Commonwealth passed in 1934. The section reads—

Section 351 of the principal Act is amended by omitting Subsection (2) thereof and inserting in its stead the following subsection:—

(2) Notwithstanding anything contained in any Act or State Act, the owner or master of a vessel navigating under circumstances in which pilotage is compulsory shall be answerable for any loss or damage caused by the vessel or by any fault of the navigation of the vessel in the same manner as he would if pilotage were not compulsory.

The Act of the Commonwealth is supreme. When the Minister brought down this Bill to amend the Harbours and Jetties Act, he did something that was obligatory. Otherwise those who consulted our Act would have come to a wrong conception of the position, since the Commonwealth Act made the master or owners of the ship responsible, irrespective of the fact that the pilot might have been negligent in his work. In these remarkable circumstances the Minister has introduced the Bill to bring our law into line with that of the Commonwealth. Therefore we have no alternative to supporting the Bill, but we might nevertheless question the fairness, equity and propriety of the Commonwealth Act in making the owners of a ship liable for damage done when negligence on the part of the pilot has been or could be proved.

MR. WATTS (Katanning) [10.0]: I find myself in some disagreement with the member for Swan (Mr. Sampson), and look at this question from a different aspect. As I understand it at present, if a vessel is in

charge of a pilot, and the pilot is negligent, and the ship damages some jetty or wharf, its owners are not liable. The Bill, however, seeks to say that whether the pilot is negligent or not the owners of the ship shall be liable for the damage. It seems to me that when a pilot is placed in charge of a vessel, it is then in the charge of a person who is skilled in the navigation of the particular port she is entering. If negligence can be proved against the pilot in the handling of the ship, the owner should not be liable for the damage. A jetty may be damaged through the negligence of the pilot, who is usually an employee of the authority controlling the harbour, or at least is in possession of their certificate. As a general rule, if an employee of any concern is in charge of some vehicle or instrument that is capable of doing damage, and such person is negligent in the use of that vehicle or instrument, the employer does not escape liability. I do not see, in the circumstances of this case, why the owners of the vessel should be liable for damage that is occasioned through the negligence of the pilot who is not under their control, but whose behests, I understand, they are obliged to adhere to while the ship is in his control.

Mr. Patrick: At such a time the captain is not in control.

Mr. WATTS: The captain is not in control while the pilot is in charge. He has not the control he would have of the movements of the vessel when on the high seas. According to this Bill, whether the pilot is negligent or not, the owners of the vessel are to be held liable for the damage the ship may do when under the control of the pilot, notwithstanding that it is obligatory upon the owners of the ship to have a pilot. The master of a vessel cannot avoid having a pilot. That pilot is employed by the Harbour Trust or some other responsible authority, and yet the owners of the ship will be expected to pay for the damage caused by him, if that damage is due to negligence. That is an entirely wrong principle for us to follow. I did not follow the observations of the member for Swan with reference to the Navigation Act. In any event, I do not think it comes into the question. If I am wrong in that contention, I am prepared to be corrected. As I see it, the whole question that lies for consideration in regard to this Bill is whether we should relieve the employers of the pilot of liability, which

they now have if the pilot is negligent, in the event of any damage being done, say to the jetties or wharves, by the vessel when in control of the pilot. The principle involved is wrong. We ought not to depart from the existing state of affairs where we at least give the opportunity to the owners of the vessel to prove that the pilot has been negligent, and in that instance absolve themselves from responsibility. I oppose the second reading.

MR. McDONALD (West Perth) [10.5]: I admit I have not given careful attention to this Bill, which seeks to make our legislation conform to that of the Commonwealth and of the other States. I understand that by an amendment of the Commonwealth Navigation Act the law, in regard to the liability of ships colliding with harbour structures when in charge of a pilot, now provides for compulsory pilotage, and that law overrides the law of the States. This Bill is intended to make our law conform to the amendment of the Commonwealth Navigation Act. That is quite a proper course to adopt. Our Harbours and Jetties Act will still remain in force and have application in various directions. Where there is an existent Federal law, it is desirable that the State legislation should be similar to it. My trouble is that I am not satisfied from my examination of the Bill that it does what the Minister desires it to do. It may go beyond the Commonwealth Act. It may impose upon the shipowner a liability beyond that which the Commonwealth law imposes. I hope, if some member will move that the debate be adjourned, the Minister will allow the Bill to stand over until Thursday, so that we may have an opportunity to examine it and make certain that it carries out the intention for which it was introduced. I do not say it does not carry out that intention.

The Minister for the North-West: The Bill had to run the gauntlet of the legal fraternity in another place.

Mr. McDONALD: And the legal fraternity in this Chamber, where we have the last say. Although I do not say the Bill does not carry out the Minister's intention, I should like to examine it a little further.

MR. THORN (Toodyay) [10.8]: I agree with the observations of the member for Katanning (Mr. Watts). Several skippers of coastal ships have been given certificates

by the Harbour Trust and allowed to berth their own vessels. Many sea-going captains have to hand their job over to a pilot in the Gage Roads. They have no right to interfere with the vessel until the pilot berths it. The ship is definitely in charge of the pilot, who is employed by the Fremantle Harbour Trust, and is placed upon it by that authority. No captain may enter the harbour from overseas until a pilot goes aboard. It is unfair that, whilst the ship is in charge of the pilot, any damage that may be done to any barge or ship in the harbour or to the wharf should be a liability upon the captain or the company. I do not see how we can have it both ways. Many of the captains have had coastal experience, but still are not allowed to berth their ships. They are forced to take on a pilot, and it is necessary to pay the pilotage fees to the Harbour Trust. Captains who are exempted from taking a pilot must have local knowledge and possess years of experience in bringing ships into the harbour before the Trust will authorise them to take their own ships in. The Bill is not a fair proposition, and I shall not support the second reading.

On motion by Mr. Abbott, debate adjourned.

House adjourned at 10.12 p.m.

Legislative Council,

Wednesday, 30th October, 1940.

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The PRESIDENT took the Chair at 4.30 p.m., and read prayers.

BILL—SALE OF LAND (VENDORS' OBLIGATIONS).

Introduced by Hon. G. Fraser and read a first time.

MOTION—JETTIES ACT.

To Disallow Regulation.

Debate resumed from the previous day on the following motion by Hon. G. W. Miles (North):—

That Regulation No. 10 made under the Jetties Act, 1926, as published in the "Government Gazette" on the 6th September, 1940, and laid on the Table of the House on the 10th September, 1940, be and is hereby disallowed.

HON. A. THOMSON (South-East) [4.36]: I support the motion for the disallowance of increased charges imposed in connection with the jetties of the North. May I draw the attention of Mr. Miles and his colleagues from the North Province to the fact that they have always received consideration from members of the Country Party who, while not representing the North Province, understand the difficulties the pastoral industry has to face. We have always extended to that industry more than our sympathetic support. I was delighted to make a note of some remarks made by Mr. Miles during the course of his speech, when he said something to the following effect:—

This method represents another example of passing on costs . . . This is a system in which Governments as well as practically all other sections of the community are able to indulge.

Mr. Miles added to that expression of opinion—

The exception is the unfortunate primary producer, whose products are sold at world prices or, in the case of wool under present conditions, at a fixed price.

We have been discussing the position of the primary producers during a considerable proportion of this session and I am sure we will give the constituents of the representatives of the North Province more loyal support in safeguarding the interests of the pastoral industry than their representatives are apparently prepared to extend to the section of the primary producers whom we represent. I had an opportunity to pay a brief visit to the North. Although I do not by any means pose as an authority regarding the difficulties experienced by the residents of that portion of the State, my short sojourn demonstrated to me the problems that pastoralists have to contend with in the development of their holdings. My visit also enabled me fully to appreciate the disabilities with which the shipping companies have to contend, particularly with regard to the tides. One has