

## CARIBBEAN AND GENERAL SESSION

FRIDAY—NOVEMBER 21

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Gloucester Pt., Va.

### **A Suggested Reorganization of the Florida Marine Fisheries Laws**

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Florida has two big problems confronting it in the field of salt water conservation and these problems must be solved if Florida is to achieve an effective, practical and progressive salt water conservation program. These problems are, first, shortage of money and, second, the deplorable condition of the conservation laws.

The State Board of Conservation is charged with protecting an industry which brings in an estimated \$500,000,000 annually, yet the total operational budget of the Board has never exceeded its present \$214,000. Although the bulk of the money goes for law enforcement, the Board is woefully weak in that department. A total of 41 conservation agents are expected to patrol and enforce 420 Florida laws on 5,000 miles of coastal and tidal waters. They are expected to do this without the aid of airplanes and without radios. In most cases they are expected to do this job with nothing but a small boat and outboard motor. They are further expected to devote all of their time and energy to this job for an average salary of \$165 per month.

To do an adequate enforcement job, Florida should have at least 50 per cent more men who are well trained, well equipped, and who can be paid a salary that would attract qualified men to the job and give them an incentive to give it their best efforts.

The Department needs more equipment. It needs better and faster boats. If there is a state that needs airplanes in the Conservation Department, it is Florida, which has the longest coast line of any state in the Union.

This sin of omission on the part of the people to support the Conservation Department and on the part of the Legislature to appropriate sufficient money to operate it properly, is costing the State of Florida millions of dollars that the salt water fishery resources could produce.

At the present time Florida has a total of 420 laws or regulations affecting salt water conservation. Of these, 170 are general statutes; the remaining 250 laws are either local laws or general laws of local application. When we consider that we have fewer than 20 species of marine seafood animals that are specifically regulated by law and that of the 67 Florida counties only 39 counties are involved directly, it is easy to see the problems with which we are faced, both in interpreting the laws and in trying to enforce them, not to mention the fact that so many of them have nothing in common with established conservation principles. So many local and general laws have been passed through the years that the result has been duplication and contradiction. It is apparent that many laws were passed without knowledge of existing

legislation; some, by implication, repealed portions of old laws but left confusing fragments of their predecessors in full force and effect. The result is that in some counties it is impossible to determine where one law leaves off and the other begins.

Many of these acts are what are called "population" acts. Under this system the act is written into the statutes as a general law but is made to apply only to the county or counties within a given population bracket. The net effect is a "local" law. However, in many cases counties for which the regulation was originally designed have grown out of the specified population bracket and other counties have grown into it. For example, we now frequently find a law providing for a closed season on mullet in a county 60 miles from any salt water, whereas the coastal county for which the law was intended has no regulation at all. This assortment of contradictory, outdated and overlapping statutes leaves fishermen, conservation agents, judges, and even lawyers in a perpetual state of confusion and makes effective enforcement a virtual impossibility.

In proposing a reorganization of the Florida salt water fishery laws, the writer firmly believes that the only way to do an effective job is to start from the ground up and build a conservation code or set of laws and regulations that can be understood, that serve the needs of our state fisheries, based on sound conservation principles. To do this would necessitate a repeal of all our present laws, both general and special. Some of these would, of course, be re-enacted as a part of the new conservation code, but we can no longer hope to straighten out this mess by patchwork.

The Legislature, pursuant to constitutional authority, has created a State Board of Conservation and placed in it certain powers. Among those powers is the authority to make rules and regulations. This rule-making power should be clarified. It is only natural that the Board would be reluctant to make a rule inconsistent with an act of the Legislature, although such act may now appear obsolete or contrary to a newly-arising conservation problem. Time, experience, scientific research and the daily accumulation of conservation and economic problems have taught us that some state agency should be granted sufficient authority to meet these problems as they arise without having to wait for a legislative body to convene every two years. It is in the interest of the conservation of our marine resources to recommend that the Conservation Board should have authority to make the following rules and regulations. *Any such rules and regulations would be submitted to the Legislature at the next succeeding session for approval or rejection.*

1. Fix the seasons when the taking of any of the fishery resources of the state is lawful or prohibited.
2. Define the areas, places and waters from which the various kinds of fish may be taken.
3. Define and fix the types and sizes of gear that may lawfully be used for each class of fish. Define and fix the times, places and manner in which it shall be lawful or possess or use the fish.
4. Regulate the possession, disposal and sale of all coastal species of fish within the state, whether acquired within or without the state.
5. Regulate the prevention and suppression of water pollution, and all infectious, contagious, dangerous and communicable diseases and pests affecting any coastal fishery resources.

6. Fix limits by sizes, sex, numbers, and amounts of various classes of fish which may be taken, possessed, sold or otherwise disposed of.
7. Regulate the landing of the various types of fish.
8. Promulgate such other rules and regulations as may be necessary to carry out the provisions of this act.
9. Establish and maintain a system of state catch statistics with proper penalties to enforce the collection of such statistics.
10. Have authority to promulgate rules and regulations recommended by the Gulf States Marine Fisheries Commission and the Atlantic States Marine Fisheries Commission, of which Florida is a member. (These commissions have proven invaluable in providing an organized forum for the exchange of ideas and information between the states and the United States Fish and Wildlife Service, so that all states may benefit from the experience of each, as well as to work out cooperative fishery explorations and research work that is so badly needed.
11. Fix standards of quality, sizes and maturity of fish.
12. In general, have authority to permit the taking, capturing, possession, sale, purchase and transportation of salt water products.

The present penalty and confiscation provisions are wholly inadequate and a complete re-writing is necessary. The powers and duties of the conservation agents should be clearly defined, so that the agents will not only have adequate authority to carry out a proper enforcement job but written so that they will have no difficulty in understanding them.

A long range comprehensive information and educational program is essential to a worthwhile conservation program. Therefore, it is recommended that the new law provide that such a division be set up in the Conservation Department—to work in close cooperation with the Marine Laboratory of the University of Miami, which has done the fishery research for the state for the last 8 years, in order that all necessary information may be made available to the public. Sufficient money to educate the people of Florida on good conservation principles should be appropriated. It would be the duty of this educational director to be continuously devising new methods and ways of getting this information to the people. It would be fortunate for the future conservation and development of our natural resources if such a course was not only taught but made a required subject in our public schools.

We need to revise completely the tax structure of the Conservation Department, since the Supreme Court of Florida held, in the case of *Hall v. Caldwell*, 37 So. 2d 421, that the license law of this state is ambiguous. In fact, in trying to piece the law together it has been found to be so uncertain and indefinite that it is literally impossible to determine just what the Legislature intended. A tax structure should be devised that will give both government and industry (meaning both sportsmen and the commercial interests) a fair deal.

At present our conservation agents are the sole collectors of licenses relating to the taking and sale of salt water products. Such a system is wholly inadequate. It means that most of our agents spend most of their time visiting wholesale and retail seafood establishments in some areas, whereas, in at least 28 counties of Florida we do not have agents and no one to collect licenses at all. It is recommended that some public office in every county, such as the county judge's office or tax collector's office should be designated to sell

licenses and that all peace officers, including sheriffs, constables, as well as conservation agents, should be empowered to collect licenses and make arrests to enforce the license and other conservation laws. This would enable the Department to have officers to enforce the license laws in all counties as well as a local office to issue the licenses. At present they are issued in Tallahassee. In the 28 or more counties without agents, we have many places selling seafood that have never bought a license out of Tallahassee and we have peddlers selling from their trucks with no one in these counties to collect a license from them, although they are supposed to be licensed as wholesalers under the law.

The job of Supervisor of Conservation is a big job, too big for one man to handle with an office force consisting of one secretary, one license clerk and a bookkeeper. It is recommended, to provide a competent force for the Department, that a position of Assistant Supervisor or Administrative Assistant be created, with sufficient salary attached to attract a qualified man for the job. It may be advisable to place such person in charge of law enforcement. This would place some type of direct supervision over the agents, and bring about more effective law enforcement. It is impossible at present for the Supervisor to give proper attention to the agents and to attend to all the other details of this office.

The employment of the Supervisor and all other persons of the Department by only one member of the State Board of Conservation (the Governor), rather than by the Board itself, has long been a controversial matter, and is considered by many to be a major weak spot in our present system. It is pointed out that such an arrangement necessitates the training of a new supervisor every four years. All members of the Board of Conservation are elected by the people of Florida and all members of the Board can succeed themselves in office except the Governor. It is contended that this leaves the Board itself without any effective means of carrying out the obligations placed upon it, and certainly no control over the efficiency or inefficiency of persons employed to represent the Board in the field of conservation. Regardless of whether this man has been a good supervisor or a bad one, he is limited in his service to a four-year period, after which time the State ceases to benefit from the investment it has made in his training and experience. Whether these points are well taken is a matter to be gravely considered by conservationists and by the Legislature. The Board of Conservation is founded on the principle of preserving to all the people their great heritage of fishery resources.

There are many other details to be considered in drafting such major legislation and these cannot be discussed here, but the desire of all the people of Florida is to prepare the best law possible and then to unite to work for its enactment. If the great throng of sportsmen, representatives of commercial interests and conservationists unite for the common cause of improving our conservation system, both in practice and with laws, it is certain that progress will be made and the goal of a reorganization of the fishery laws will be reached.