CHAPTER XX

CONSERVATION, ARCHEOLOGY AND GEOLOGY

GAME AND FRESH WATER FISH

May 22, 1941.—041-281.

ALLIGATORS—SALE—SHIPMENT

QUESTION: A dealer in alligators located in Broward County accepts a deposit for an alligator; the alligator is shipped into Broward County from Louisiana; the dealer in turn ships the alligator to the buyer. Are such transactions prohibited by Chapter 19706, Special Acts of 1939?

To Hon. I. N. Kennedy, Executive Secretary, Game and Fresh Water Fish Commission:

Chapter 19706, Special Acts of 1939, is entitled "An Act to prohibit in Broward County, Florida, the capture, injury or killing of alligators, the sale, transporting and transporting for sale of alligators, alligator skins, alligator teeth or alligator eggs, and providing the penalty for violation of such Act, and providing for the repeal of all laws in conflict herewith, and for the effective date of this Act."

Section 2 of said Act provides: "It shall be unlawful for any person to offer for sale, sell, transport or transport for sale any alligators, alligator skins ... within the territorial limits of Broward County, Florida, except as herein provided."

It is my opinion that the provisions of the foregoing Act prohibits transactions as stated in your letter. I regret that I cannot agree with a former opinion rendered by the learned Judge Gibbs under date of March 25, 1940, who held that the Act was only intended to apply to alligators originating in Broward County, Florida.

GAME AND FRESH WATER FISH

July 8, 1942.—042-340.

ARRESTS—BOND ESTREATURE—COSTS

QUESTION: Section 12 of Chapter 13644, Acts of 1929, provides in part as follows:

"The State Game Commissioner and his deputies shall be allowed for making arrests the same fees as sheriffs and the same mileage for conveying prisoners, the same to be taxed as costs in the cause, in case of convictions, and paid in the like manner as the compensation of sheriffs, but no fees or mileage shall be allowed in case of acquittals."

In cases where bonds have been estreated, is the Game and Fresh Water Fish Commission entitled to its costs?

To Hon. I. N. Kennedy, Executive Secretary, Game and Fresh Water Fish Commission:

It is my opinion that you are entitled to costs in such cases, and I base my opinion on Section 12, Chapter 13644, Acts of 1929, which, in part,
CONSERVATION, ARCHEOLOGY AND GEOLOGY—Game and Fresh Water Fish

provides that all moneys collected from fines, penalties or forfeitures shall go into the Fine and Forfeiture Fund where such convictions are had, and, inasmuch as a forfeiture of bond which has not been vacated is equivalent to a conviction, you are therefore entitled to your costs.

GAME AND FRESH WATER FISH

March 21, 1941.—041-158.

BLACK BASS—CLOSED SEASON—REGULATIONS

QUESTION: Is the taking of black bass from that portion of the Kissimmee River lying between Highlands County and Okeechobee County regulated by the general closed season on black bass?

To Hon. I. N. Kennedy, Executive Secretary, Game and Fresh Water Fish Commission:

The answer to your question is to be found by determining the boundary lines of Highlands County and Okeechobee County and by determining if there is a population or local act applying to either or both of said counties.

I call your attention to Section 60, C.GL., which defines the boundary lines of Highlands County. You will observe from reading this section that the eastern boundary line of this county is fixed in the following manner.

"... running east on township line dividing townships thirty-two and thirty-three, to the intersection of same with the Kissimmee River; running thence southerly along said river and bordering Okeechobee County, to the intersection of the township line dividing townships thirty-seven and thirty-eight with said river and boundary. . . ."

It is therefore, necessary to determine the western boundary of Okeechobee County and I call your attention to Section 57, C.GL., which fixes the western boundary of Okeechobee County in this manner:

"... thence west on the line dividing townships thirty-two and thirty-three, south, to the Kissimmee River; thence in a southerly direction in the middle of the Kissimmee River to the normal water level on the boundary of Lake Okeechobee . . . ."

It is apparent, therefore, that the center of the Kissimmee River is the dividing line between Highlands and Okeechobee Counties.

I call your attention to Chapter 19460, Acts of 1939, which was a population act providing that there should be no closed season for fishing with hook and line in the waters of any county in the State having a population of not more than 3,495 and not less than 3,470 according to the last State Census. If my information is correct, the 1935 State Census of Okeechobee is given as 3,484 which would put Okeechobee County within the provisions of this chapter.

It is my opinion that the taking of black bass from that portion of the Kissimmee River lying between Okeechobee County and Highlands County and lying within Okeechobee County is governed by the local or the population act; that is, the east one-half of said portion of the river. The taking of black bass from the west one-half of said portion of this river is governed by the general law unless there is some special or local act, similar to the one which applies to Okeechobee County, applying to Highlands County.