

FISH—AUTHORITY TO CATCH FROM CERTAIN LAKES.

Tallahassee, Fla., March 31, 1917.

*Honorable Sidney J. Catts, Governor,
Tallahassee, Florida.*

Dear Sir:—

I acknowledge receipt of your verbal request of this date for an expression from this office upon the question of whether or not you have the power or authority to grant the request of a number of citizens of Brevard County relative to the taking of fish from certain lakes in said county.

This petition is in the following language:

"To his Excellency Sidney J. Catts, Governor of the State of Florida:

"We, the undersigned citizens of Brevard County, State of Florida, would respectfully represent unto your Excellency, that there is established in Brevard County, State of Florida, a Drainage District known and described as The Upper St. Johns Drainage District, which said District includes Lake Poinsett, Lake Winder and Lake Washington, that the drainage of the above lakes is to start on the first day of July, 1917, that in consequence of the drainage of said lakes there will be a great number of Fish which will be totally lost unless the citizens of our county are allowed to take with seines, and this is to petition Your Excellency to direct the Sheriff of Brevard County, State of Florida, not to enforce the fish laws now in force with reference to these lakes, but to permit the citizens of the County to take them with seines.

"The above petition is made because of the fact that in view of the drainage of the above lakes the fish therein

will be a total loss to the people of our State, and if permitted to take them with seines they will be of great advantage and benefit to our people."

As a general proposition, under our form of government no one except the legislature has the power to modify or change a statute of this State or waive the operation of its provisions.

If the lakes referred to, which are named in the petition, can be classed as "wet weather" lakes, the provisions of Chapter 5773, Acts of 1907, would apply, and food fish may be taken in the manner therein provided from April 1 to September 1 of each year. If, however, the lakes mention cannot be classed as "wet weather" lakes as defined in this statute, the provisions of Chapter 5973 of the Acts of 1909, would apply, and such fish could not be taken except as therein provided.

If, under the facts as they exist, the provisions of Chapter 5973 apply to the lakes involved, you, as Governor, have no power to waive the provisions of this statute and authorize the taking of fish in the manner described in the petition, and the only way for interested parties to secure such authority would be to have the Legislature to grant it, and, inasmuch as the Legislature will be in session before the time for taking the fish in the manner described in the petition, the subject can be taken care of by the Legislature and authority granted, if it is deemed advisable, for handling the matter in accordance with the wish of the petitioners.

Respectfully submitted,

T. F. WEST,

Attorney General.