

Conservation of Florida's Natural Resources

by

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FLORIDA, the land of FLOWERS, the land of SUNSHINE, the land of OUTDOOR RECREATION, the land of GROWING GREEN, the land of WATER with LAKES and STREAMS, stocked with fish for sport and fish for food, all of which only God is able to produce for man. These are the good things of life for which we did have for many years to sell people outside Florida. To destroy any of these assets is a great loss for the attraction of tourists, which has always been considered Florida's best industry. The year 1912 I started selling black bass fishing on the St. Johns River to out of state visitors. The associations in this work, I know the requirements to sell Florida outdoors.

Conservation of these assets are very important. Until 1946 the St. Johns River was a beautiful stream, attracted many visitors for its wild flowers, especially blooming water hyacinth along its shore line which supplied food for fish, saving erosion of the river banks by quieting waves in high winds, and an aid to water purification. I am sorry now to report we have lost much of these valued assets.

With a few years of War, the U. S. Army Engineers in charge of boat navigation contended drifting hyacinth were detrimental for the operation of Air-Sea-Planes at Jacksonville Air-Base. Fences were built at many points on the river to stop drifting hyacinth down stream, which caused a bad situation for boat navigation, South of Federal Point. The Engineers tried several mechanical machines, that did not prove efficient or practical, so they were ready to abandon this procedure for a chemical spray in 1946, which they said would not harm cattle feeding on them and without injury to fish.

At this time I made a protest against extensive use of pesticides, but agreed a controlled program was necessary. Until 1958 it was a general understanding we had a controlled program, then Congress passed the Act of extermination of all hyacinth. I realized before this we were in trouble, but pressures were so great there seemed little chance of getting relief.

The analysis and recommendations for the control and balance of nature is tricky, and must be handled with caution. *A controlled hyacinth program can successfully be carried on with the use of a Mechanical Harvester on the bow of a boat, loading the boat with hyacinth, moving them to shore where they are dumped.* This is a simple procedure and a clean operation. In Wisconsin and Minnesota where hyacinth will not grow, under water weeds are taking the streams. Machines are being built to harvest this vegetation and dumping same on the banks. Hyacinth will retard the growth of under-water plants, and easy to harvest floating on top of water.

I have appealed to our Congressional leaders, and our State Government, to stop the use of 2,4-D spraying the St. Johns River. A letter from Col. Robert Marshall, Asst. Director of Civil Works for Atlantic Division, U. S. Army Engineers, Quote: "Hyacinth control activities on the St. Johns River area has been conducted for many years under the Federal Program for aquatic plant control in the State

to others" and therefore there would be no liability in the absence of negligence on the part of the applicator of the herbicide.

The principle of strict liability is being extended, both by statute and by modification of the Common Law. This extension will undoubtedly continue as new social viewpoints impose greater responsibilities upon the defendant.

The outstanding statutory application of the principle is of course in the Workmen's Compensation Act which is based upon the theory that the burden of industrial accidents should fall upon the employer, because he is in a better position, by means of prices and insurance, to shift it to the public.¹⁹

A very similar policy is found in such statutes as the Federal Safety Act, which requires railroads engaged in interstate commerce to equip their trains with certain safety devices and makes them responsible without negligence for any deficiency which injures employees.

While the Common Law has not kept pace with these statutory developments, it has shown some tendency to extend strict liability into new fields. Sellers of goods have been held liable in increasing numbers for defects which cause harm to the purchaser, under the guise of "implied warranty" which becomes a term of the contract, and permits recovery without any proof of negligence. A growing minority of jurisdictions have held the manufacturer liable to the ultimate consumer, even in the absence of contract, upon the theory of a warranty "running with the goods." While this extension has occurred thus far chiefly with the sale of food, there is no essential reason for so limiting it, and it may eventually be applied to any article where there is a high risk of injury from any defects.

The last few years have witnessed the renewed and more vigorous advocacy of strict liability on an even broader scale. The development of liability insurance has furnished a potent argument for those who wish to extend it, on the ground that such insurance provides a means by which the inevitable damage caused by an entire industry or field of enterprise may be distributed among its members, and the cost of insurance may be passed on, by rates or prices to the public which is served.²⁰

It appears probably, however, that there will be further developments of this kind in the future, whose form and extent cannot be foreseen with any certainty. It is not difficult to predict that the tort law of 2064 will involve, in many additional fields, both compulsory liability insurance and compensation.

FOOTNOTES

- ¹Wigmore, 7 Harvard Law Review, 1894.
- ²Holmes, The Common Law, 1881, 2, 3.
- ³Winfield, The Myth of Absolute Liability, 1926, 42 L.Q. Rev. 37.
- ⁴Lambert v. Bessey, 1681, T Ray. 421.
- ⁵Pollock, Law of Torts, 13th Ed. 1929, 146.
- ⁶Ames, 22 Hav. L. R. 97.
- ⁷Holmes Common Law, 1881, 144-163.
- ⁸Prosser, Law of Torts, 1955, 317.
- ⁹Ehrinzweig, Negligence without Fault (1951).
- ¹⁰1866, L. R. 1 Ex 265.
- ¹¹59 U.P.A. LR 298.
- ¹²Luthringer v. Moore, 1948, 31 Cal 2nd 489, 190 P. 2nd 1.
- ¹³Chapman Chemical Co. v. Taylor, 1949, 215 Ark. 630, 222 SW 2nd 820.
- ¹⁴Russell v. Jacksonville Gas Corp. 117 So. 2nd 29.
- ¹⁵Prosser, Law of Torts, 1955, 60-62.
- ¹⁶Prosser, Law of Torts, 1955, 60-62.
- ¹⁷Reaver v. Martin Theaters of Florida, 52 So. 2nd 682.
- ¹⁸Prosser, Law of Torts, 1955, 343-344.
- ¹⁹Prosser, Law of Torts, 1955, 345.
- ²⁰Prosser, Law of Torts, 1955, 348.

of Florida to reduce the menace to navigation. The new Aquatic Plant project authorized by the Congress in 1958 provides for control and ERADICATION of the water hyacinth and other aquatic nuisances."

"It is our policy to encourage recreation fishing on all of our authorized projects and every effort is made to avoid any damage to this type of activity. In conjunction with our efforts the Florida Game & Fresh Water Fish Com. is actively engaged in hyacinth Eradication. In addition, the U. S. Fish & Wildlife Service, the U. S. Dept. of Agriculture and the U. S. Public Health Service also cooperate in the program."

At one time these Agencies did approve the use of 2,4-D spray before extensive tests were made. It was generally acknowledged pesticides did not kill fish, after fish were placed in a pool with sprayed hyacinth, but they did not test the act of feeding fish with pesticides sprayed on fish food, and taken internally. It has recently been determined by the U. S. Fish & Wildlife Service that *sub-lethal doses of certain insecticides reduce the reproduction capacity of game birds*, and the same could apply to fish. The Florida Game & Fresh Water Fish Commission has recognized this hazard to our fish and wild life population and on several occasions asked the Jacksonville U. S. Engineers to avoid spraying the shore line of the St. Johns River, and so far they have refused to recognize their requests.

The Agricultural Dept. recognized pesticides a hazard to farm lands when used along river banks, drifting to vegetable crops, etc.

The State Board of Health states: "The destruction of water hyacinth with pesticides increases the production of blind mosquitos, by increasing the fertility of the water, and also is followed by heavy production of *Culex nigripalpus* the transmitter of St. Louis Encephelitis in the state. One of the main enrichers is effluent from sewage treatment plants. There is no question but what water hyacinth do take out the nutrient materials from the water and help bring about a balance by reducing the amount of plankton in the water, which in turn makes less plankton for the blind mosquitos and reduce their terrific production.

Conclusions: The action of broadcast spraying of pesticides is a hazard to our natural resources and mankind. It destroys food and cover for fish life. It destroys habitat for food and cover of both fish and wildlife. It is destructive to fish and wildlife when taken internally. The destruction of plant life along river shore lines results in a condition of bank erosion, and falling trees unsightly and a waste of resources. The most important is man's health which we should have every reason to protect, **ROTTEN VEGETATION.**

It is now determined the U. S. Army Engineers are responsible for the existing conditions mentioned, and to my knowledge they have the determination to continue their operations of ERADICATION of aquatic plant life. How long will the people of Florida permit this act to continue? My Congressman D. R. Matthews, Senator Holland and Senator Smathers have the detailed information to proceed. I urge you to write our Congressman to stop this pesticide destruction quick as possible. They are using our tax money without a good purpose, destroying the entire river, when their only obligation is to provide an open channel for boat operation.

Comments by Commissioner of Agriculture Doyle Conner Fourth Annual Meeting, Florida Hyacinth Control Society, Inc.

7:30 P. M. Tuesday, June 30, 1964

HOLIDAY INN, TALLAHASSEE, FLORIDA

Your president, Mr. Friedman, and I were just discussing the effects of aquatic plants and weeds on navigation and outdoor recreational activities. This touches on my subject for this evening, "The Future Development of Outdoor Recreation in Florida."

Speaking as vice chairman of the Florida Outdoor Recreational Planning Committee, I believe your organization has an important role to play in this development.

Although aquatic plants are an interesting form of vegetation, they are a problem in Florida. They can choke off our waterways, limit navigation, and interfere with recreational activities.

Your organization has been doing a wonderful job of supporting projects to eliminate these drawbacks in water-based recreation, and has contributed much to the development of advance techniques in control of aquatic plants and weeds. I even noticed in the newspaper the other day that someone hit on the idea of using seacows as a control method.

Your continued efforts along these lines will enable us to reach the full potential of our water-based recreation program.

As an additional incentive, let me point out that the demand for water-based recreation is increasing more rapidly than the demand for outdoor recreation in general. Swimming, for example, appears likely to be the most popular outdoor activity by the end of the century. Boating is also growing rapidly in popularity.

In addition, a federal survey recently showed that 20 per cent of those interviewed on the subject of outdoor recreation indicated they would like to go fishing or fish more often.

To give you a better idea of what your efforts will mean to the people of this State, I would like to go into the subject of outdoor recreation more fully.

WHAT IS OUTDOOR RECREATION?

Outdoor recreation is a broad and inclusive term. In a sense, anyone who goes out-of-doors in quest of fun, entertainment, relaxation, diversion or satisfaction is seeking outdoor recreation.

There are two categories of outdoor recreation. **URBAN**—Recreation necessary to meet the day-by-day needs of modern society. This is usually the problem of municipalities and counties.

NON-URBAN—This is the category with which the Outdoor Recreational Planning Committee is concerned with, and is even more basic for it provides the most of us our only real and personal contact with nature.

The State plan (non-urban) includes 13 types of recreation. They are:

1. Hunting
2. Salt water fishing
3. Fresh water fishing
4. Camping
5. Picnicking
6. Hiking
7. Boating
8. Salt water swimming