

146 U. S. 387, that the ownership of the waters of Lake Erie and all the land under them within the state, is a matter of public concern; that the trust under which such lands and waters are held is governmental, and that the state, as a trustee for all of its people in the use of such lands and waters, cannot abandon or abdicate the trust property or permit a diversion of it to private uses different from the object for which the trust was created. In this view your third question as above indicated should be answered in the negative.

Aside from the fact that your fourth question primarily concerns the rights of private persons as to which this department as a public office must be loath to advise, my consideration of this question is further embarrassed by the fact that conceivably the same may involve the question of the validity of Section 3699-1, General Code, as enacted by the Fleming Act, above referred to, a question which the rules and declared policy of this department preclude me from deciding.

In this connection, however, it is to be observed that in the case of *State vs. C. & P. Railroad Co.*, supra, it was held that the littoral owner along the shore line of the harbor is charged with knowledge that nothing can be done by him that will destroy the rights of the public in the trust under and by which the state owns and holds the lands and waters of the harbor. And by the same token, it may be said that although the state may not arbitrarily destroy or impair the rights of such littoral owner by legislation which has no real or substantial relation to the uses of navigation, or appropriateness to that end (*United States vs. River Rouge Imp. Co.*, 269 U. S. 411), such littoral owner has no rights which can preclude the state from regulating the use of the harbor, lands and water fronting on the lands owned by such littoral owner by legislation having reasonable and appropriate relation to that end; and where such legislation provides for the construction of wharves in and upon the harbor waters, this may, in my opinion, be done without compensating the owner of the shore lines in front of which such wharves may be built, for damages sustained by such littoral owner by reason of his loss of access to such harbor, lands or waters.

Respectfully,
GILBERT BETTMAN,
Attorney General.

446.

APPROVAL, BONDS OF BOTKINS VILLAGE, SHELBY COUNTY, OHIO—
\$3,000.00.

COLUMBUS, OHIO, May 27, 1929.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

447.

APPROVAL, BONDS OF LAKE TOWNSHIP RURAL SCHOOL DISTRICT,
STARK COUNTY, OHIO—\$16,000.00.

COLUMBUS, OHIO, May 27, 1929.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.