

sufficient fee simple title to said tract of land free and clear of all encumbrances whatsoever. Said warranty deed is accordingly herewith returned with my approval.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1520.

STATE HIGHWAY IMPROVEMENT—COUNTY CO-OPERATING WITH HIGHWAY DIRECTOR—PUBLICATION OF NOTICES, OTHER THAN THOSE FOR BIDS AND CONDEMNATION PROCEEDINGS, UNNECESSARY WHEN NO ASSESSMENTS LEVIED.

SYLLABUS:

Where a county is co-operating with the Director of Highways in the construction or reconstruction of a state highway under the provisions of Section 1191, General Code, and no assessments are to be levied either by the state or the county, no notices are required to be given, excepting, of course, public notice of the taking of bids and any notices required in connection with the condemnation proceedings to acquire land used in connection with the project.

COLUMBUS, OHIO, February 13, 1930.

HON. R. L. THOMAS, *Prosecuting Attorney, Youngstown, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication which reads:

“Please inform us at your earliest convenience as to whether or not a publication of a notice of road improvement is required where a county with a tax duplicate in excess of three hundred million (\$300,000,000) dollars is co-operating with the state highway director in the construction or reconstruction of a state highway on which no assessments are to be levied by either the state or the county, under the provisions of Section 1191 of the General Code.”

As suggested in your communication, Section 1191, General Code, as amended by the 88th General Assembly, 113 O. L., p. 601, authorizes the county commissioners of any county having a tax duplicate of real and personal property in excess of three hundred million dollars to co-operate with the Department of Highways in the construction, reconstruction, et cetera, in the manner provided for therein.

Under the present scheme of operation in such co-operative project, it becomes the duty of the Director of Highways to take the initiative and award the contract, and in connection with his powers he is authorized under certain conditions to assess against property which is benefited by a given improvement. The county commissioners under Section 1214-1, General Code, may assume on behalf of the county and agree with the Director to make the assessment.

However, without an extended discussion, it is believed sufficient to state that there is no provision of the statute which requires notices to be given in those instances in which the county is co-operating with the Department of Highways in the construction of a county road when there are no assessments to be made either by the state or county. Of course, in the event that it should become

necessary to institute condemnation proceedings in order to acquire the necessary lands to complete a construction, then notices for such purpose would have to be given. Furthermore, the Director of Highways is required to give public notice to bidders as required by law.

In conclusion, it is my opinion, in specific answer to your inquiry, that where a county is co-operating with the Director of Highways in the construction or reconstruction of a state highway under the provisions of Section 1191, General Code, and no assessments are to be levied either by the state or the county, there are no notices required to be given excepting, of course, public notice of the taking of bids and any notices required in connection with the condemnation proceedings to acquire land used in connection with the project.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1521.

CAUSEWAY—CONSTRUCTED ACROSS BUCKEYE LAKE BY A LESSEE
OF AN EASEMENT—DUTY OF STATE CONSERVATION DIVISION
TO REPAIR SUCH CAUSEWAY AFTER CANCELLATION OF LEASE.

SYLLABUS:

Where a lessee of an easement in state reservoir lands acting pursuant to the authority of said lease, constructs a causeway as a permanent improvement on lands of the state connecting the outer bank of the lake with an island therein, such causeway upon the termination of the lease by cancellation or otherwise, becomes the property of the state, in the absence of a provision of the lease reserving the property rights in said causeway to said lessee or to his assigns and if it is now determined that the interests of the public in the use of the lands and waters of the lake require the repair and maintenance of said causeway, this may be done by the Conservation Division provided for by Amended Senate Bill No. 131 enacted by the 88th General Assembly, out of any funds available therefor.

COLUMBUS, OHIO, February 13, 1930.

HON. ALBERT T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your communication of recent date, which reads as follows:

“Under date of August 4th, 1922, a lease was granted to Mr. Herbert C. Sherman, for certain privileges at Buckeye Lake, a copy of which is enclosed herewith.

You will note that this lease provided for a right-of-way from the Millersport Road to the westerly shore of Buckeye Lake over the Fedded Embankment as shown by the green line on the map enclosed herewith; also the privilege of constructing a bridge and fill or causeway across the waters of Buckeye Lake as shown in red.

You will also note that this lease provides that it shall not be an exclusive easement, but that the same shall be open and free for the use of the general public at all times.