

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.

This lease was transferred to Lakewood Park, Inc., under date of August 16th, 1926, and immediately cancelled the same date and a new lease granted under date of September 3rd, 1926, a copy of which we are enclosing herewith and in which you will note there is no reference to the roadway, causeway or bridge.

Will you kindly give us an opinion as to the status of this causeway and bridge, especially as to who is responsible for the maintenance of same; also as to the ownership of the causeway and bridge.

Your early consideration of this matter will be greatly appreciated, as the causeway and bridge are in need of immediate repairs, in order that residents of Lieb's Island can get to and from their cottages; also for the reason that the residents are entirely without fire protection, as it is necessary for them to depend on the fire department of the village of Millersport."

From the facts stated in your communication, I assume that the causeway referred to in your communication, and the bridge connecting the sections thereof, were constructed by, and at the expense of Mr. Sherman, the lessee named in the lease executed by your department under date of August 4, 1922. Inasmuch, however, as these improvements were erected and constructed upon lands of the State and there was no provision in said lease reserving to Mr. Sherman or to his assigns under said lease, the right to remove said causeway and bridge upon the termination of said lease, by cancellation or otherwise, said improvements upon familiar principles of law became part of the land upon which they were constructed and became the property of the State.

Under the provisions of Section 411 and 428 of the General Code, and the then provisions of Section 472, General Code, Buckeye Lake, together with the property and improvements included as a part thereof whether considered as a public park or as a part of the public works of the State was at the time of the cancellation of said lease, under the jurisdiction and control of the Superintendent of Public Works who was authorized to construct and maintain improvements therein.

By Amended Senate Bill No. 131 enacted by the 88th General Assembly, and which went into effect July 25, 1929, there was created a Division of Conservation in the Department of agriculture consisting of a Conservation Council appointed by the Governor and a Conservation Commissioner appointed by the Conservation Council.

By Section 1438-1, General Code, as enacted in Amended Senate Bill No. 131, it is provided that the Conservation Council shall have and take the general care, protection and supervision of the State parks, known as Lake St. Marys, Portage Lakes, Lake Loramie, Indian Lake, Buckeye Lake, Guilford Lake and all other State parks and lands owned by the State in which it is interested or may acquire or become interested except lands the care and supervision of which are vested in some other officer, body, board, association or organization.

Section 472, General Code, as amended by the act above referred to, provides, among other things, that all lands and waters now or hereafter dedicated and set apart for public parks or pleasure resort purposes, or which may hereafter be acquired for such purposes shall be under the control and management of the Conservation Council, who shall protect, maintain and keep them in repair. This section further provides that the Conservation Council shall have the power to make improvements in such public parks, lands and waters, and to construct and maintain dykes, wharves, landing docks, dams and other works, and to construct

and maintain such roads and drives in, around, upon and to such lands and waters as shall make them conveniently accessible and useful to the public.

By Section 1438-3, General Code, it is provided, among other things, that "the unexpended balances of the appropriations of the division of public works for service, improvement or maintenance of state reservoir parks transferred to the Division of Conservation are appropriated to and made available to the Division of Conservation hereby created."

From the above noted statutory provisions contained in Amended Senate Bill No. 131, it is quite clear that Buckeye Lake, as a public park of the State, together with the property and improvements therein is now under the jurisdiction and control of the Conservation Division provided for by said act, and that the construction and maintenance of the improvements therein, so far as they have relation to the use of the lands and waters of said lake for park purposes are likewise under the jurisdiction and control of said Conservation Division.

The purpose for which the causeway and bridge referred to in your communication were constructed was to make Lieb's Island accessible to the public and if the Conservation Council determines that it will serve the public interest by repairing said causeway and otherwise maintaining the same for public use, said body has, in my opinion, ample authority to repair said property and provide for the maintenance of the same out of public funds available therefor. I do not deem it necessary to express any opinion as to how the work necessary for the repair of said causeway and bridge shall be carried on, whether by contract or otherwise; but addressing myself to the questions presented in your communication, I am of the opinion that the causeway and bridge referred to in said communication are the property of the State of Ohio, and that the Conservation Division of the Department of Agriculture, acting through the Conservation Council, is authorized to repair and otherwise maintain said improvement.

I am herewith returning to you the lease executed to Mr. Herbert C. Sherman under date of August 4, 1922, and also the lease executed to Lakewood Park, Inc., under date of September 3, 1926, both of which are referred to in your communication.

Respectfully,

GILBERT BETTMAN,

*Attorney General.*

1522.

BOARD OF TRUSTEES OF FIREMEN'S PENSION FUND—COUNCIL-MANIC REPRESENTATIVES NOT HOLDING ANOTHER PUBLIC OFFICE WITHIN INHIBITION OF CITY CHARTER PROVISION.

**SYLLABUS:**

*A councilman, who is chosen to act as one of council's representatives on the board of trustees of the firemen's pension fund, is not holding another public office or employment within the meaning of the charter provision that members of council shall not hold any other public office or employment except that of notary public or member of the state militia.*

COLUMBUS, OHIO, February 14, 1930.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—Your recent communication reads:

"The charters of several cities in Ohio have a provision that members