

The Commonwealth of Massachusetts

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SPECIAL REPORT OF THE DEPARTMENT OF  
PUBLIC WORKS AND THE ATTORNEY GEN-  
ERAL RELATIVE TO PUBLIC ACCESS TO  
CENTER POND IN THE TOWN OF BECKET.

JANUARY 10, 1941.

*To the Honorable Senate and House of Representatives of the Common-  
wealth of Massachusetts.*

The Joint Board constituted under the provisions of chapter 453 of the Acts of 1923 — now section 18A of chapter 91 of the General Laws, Tercentenary Edition — submits the following report relative to a right of way for public access to Center Pond in the town of Becket. Section 18A of chapter 91 of the General Laws provides:

SECTION 18A. Upon petition of ten citizens of the commonwealth that in their opinion public necessity requires a right of way for public access to any great pond within the commonwealth, the department and the attorney general or a representative designated by him sitting jointly shall hold a public hearing and receive such evidence thereon as may be presented to them. The joint board may make such additional investigation as it deems desirable, and if it appears to said board that such a right of way exists it shall present a petition to the land court for registration of the easement. If it appears that no right of way exists it shall submit a report, together with recommendations thereon, to the general court on or before January first of the following year. This section shall not apply to any body of water used as a source of water supply by the commonwealth or by any town or district, or water company, nor shall it affect the right of the commonwealth or any town or district or water company to the use and control of the waters of any such pond for the purposes of a water supply, nor shall it affect or diminish any existing right to the use of the water of any such pond for mercantile or manufacturing purposes.

On October 4, 1939, under the provisions of this statute, the following petition, signed by ten citizens of the Commonwealth, was filed with the Department:

The undersigned, citizens of the Commonwealth of Massachusetts, respectfully represent that Becket Center Pond, located in the town of Becket, Berkshire County, in said Commonwealth, is a great pond; that in their opinion no right of way exists to said pond, and that in their opinion public necessity requires a right of way for public access to said pond.

The Attorney General designated Assistant Attorney General Walter W. O'Donnell to represent him upon the Joint Board.

A public hearing, duly advertised, was held on December 18, 1940, and continued to January 8, 1941, at which all persons were given full opportunity to be heard and to submit evidence.

Upon consideration of all the evidence the Board finds that no right of way for public access to this pond exists.

While the Board is of the opinion that public necessity and convenience do not require the establishment of a roadway for vehicles, it appears advisable to provide a foot path by means of which this pond can be reached by the public.

It is evident from the testimony given by owners of property at the hearings that the location of such a foot path from Washington Street to the southeasterly cove of the pond will not only constitute a convenient means of access, but will cause the least interference with the interests of these owners. A foot path 15 feet wide from Washington Street to the southeasterly cove of the pond, with a width of 25 feet at the shore and for a distance of 20 feet back from the shore, and with a width of 25 feet at Washington Street and for a distance of 20 feet from the entrance to the path, would appear sufficient to provide a convenient means of access for persons wishing to go to this pond on foot.

Inasmuch as Center Pond is a flowed pond, care should be taken that the right of way is laid out to the natural pond.

It is therefore recommended that the county commissioners be authorized and directed to take the land necessary to provide this right of way, and to do or to order to be done such work thereon as they consider necessary, and that the expense thereof be borne by said county or by the cities and towns of said county as said commissioners shall determine.

The Board submits the attached bill for carrying out this recommendation.

THE DEPARTMENT OF PUBLIC WORKS.

HERMAN A. MACDONALD,  
*Commissioner.*

PAUL C. RYAN,  
GEORGE W. SCHRYVER,  
*Associate Commissioners.*

WALTER W. O'DONNELL,  
*Assistant Attorney General.*

Approved.

RICHARD K. HALE,  
*Director, Division of Waterways.*

## PROPOSED LEGISLATION.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Forty-One.

AN ACT PROVIDING FOR THE ESTABLISHMENT OF A RIGHT OF WAY FOR PUBLIC ACCESS TO CENTER POND IN THE TOWN OF BECKET.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. The county commissioners of Berkshire  
2 county are hereby authorized and directed to lay out  
3 a right of way in the town of Becket from Washington  
4 street to Center pond for public access to said pond,  
5 in accordance with plans to be approved by the depart-  
6 ment of public works and showing the location and  
7 dimensions of such right of way. Said right of way shall  
8 be a path fifteen feet wide extending from Washington  
9 street along the northerly boundary line of prop-  
10 erty now or formerly of Frank N. Wade to the south-  
11 easterly cove of Center pond, with a widening to twenty-  
12 five feet at the shore for a distance of twenty feet back  
13 from the shore and a similar widening at Washington  
14 street for a distance of twenty feet from the entrance  
15 to said path. If it is necessary to acquire land for the  
16 purpose of laying out such right of way the commis-

17 sioners shall at the time such right of way is laid out  
18 take such land by eminent domain under chapter  
19 seventy-nine of the General Laws. Any person sus-  
20 taining damages in his property by the laying out of  
21 such right of way, or by specific repairs or improve-  
22 ments thereon shall be entitled to recover the same  
23 under said chapter seventy-nine; provided, however,  
24 that the right to recover damages, if any, shall vest  
25 upon the recording of the order of taking by the com-  
26 missioners and that no entry or possession for the pur-  
27 pose of constructing a public way on land so taken  
28 shall be required for the purpose of validating such  
29 taking or for the payment of damages by reason thereof.

1 SECTION 2. The selectmen of the town of Becket  
2 from time to time may make specific repairs or improve-  
3 ment to such way as they may deem necessary, but  
4 the county of Berkshire, or any city or town therein,  
5 shall not be required to keep such right of way in re-  
6 pair, nor shall they be liable for injury sustained by  
7 persons traveling thereon; provided, that sufficient  
8 notice to warn the public is posted where such way  
9 enters upon or unites with an existing public way.

1 SECTION 3. All expenses incurred by the commis-  
2 sioners in connection with such right of way shall be  
3 borne by the county of Berkshire, or by such cities and  
4 towns therein, in such proportion as the commissioners  
5 may determine.

1 SECTION 4. Said right of way shall not be discon-  
2 tinued or abandoned without authority therefor from  
3 the general court.

1 SECTION 5. Nothing in this act shall be so construed  
2 as to limit the powers of the department of public  
3 health, or any local board of health under the General  
4 Laws or any special law.



