

The Commonwealth of Massachusetts

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DEPARTMENT OF PUBLIC WORKS,  
100 NASHUA STREET, BOSTON 14, December 31, 1957.

SPECIAL REPORT OF THE DEPARTMENT OF PUBLIC  
WORKS RELATIVE TO A RIGHT OF WAY FOR PUBLIC  
ACCESS TO FOREST LAKE IN THE TOWN OF PALMER.

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*To the Honorable Senate and House of Representatives of the Commonwealth of  
Massachusetts.*

The Joint Board, constituted under the provisions of section 18A of chapter 91 of the General Laws, submits the following report relative to a right of way for public access to Forest Lake situated in the town of Palmer.

Section 18A of chapter 91 of the General Laws provides:

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 purpose 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.

Pursuant to this statute a petition, suitably signed, was filed with the Department of Public Works representing that public necessity requires establishment of a public right of way for access to Forest Lake in the town of Palmer.

Forest Lake is a great pond of the Commonwealth, this having been confirmed by a survey made by the Department of Public

Works in 1932, which showed a dam at the outlet, believed to raise the pond approximately 4 feet above its natural level. Natural area of the pond was computed as 41.3 acres.

Bennett Street, a public way, runs along the northerly shore of the pond, but involves a beach area where restrictions are imposed. Central Street which follows around the northwesterly shore is a public way abutting the pond but affords only limited access due to a cable guard rail and dangerous traffic conditions.

Other than this there is no land on the shore in public ownership and no public roads reach the pond.

It seemed that the problem at this pond was one of suitable access and that the comments made at all hearings on petitions of rights of way this year, regarding need for provision for parking, were particularly applicable in this case.

Upon consideration of the information and evidence presented at the public hearing, and that obtained from further investigation, the Board finds that no public right of way suitable for public access to Forest Lake exists at present and that establishment of such a right of way is necessary and desirable.

The Board recommends that the County Commissioners of Hampden County be directed to lay out a right of way for public access to the edge of Forest Lake, as existing in its natural state, and an area for parking contiguous thereto, in such location as may be determined suitable, and submits the attached bill for carrying out this recommendation.

Respectfully submitted,

DEPARTMENT OF PUBLIC WORKS.

A. N. DiNATALE,  
*Commissioner.*

FRED B. DOLE,  
LEWIS J. FRITZ,  
*Associate Commissioners.*

RODOLPHE G. BESSETTE,  
*Director, Division of Waterways.*

DEPARTMENT OF THE ATTORNEY GENERAL.

WILLIAM J. ROBINSON,  
*Assistant Attorney General.*

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Eight.

AN ACT PROVIDING FOR THE ESTABLISHMENT OF A RIGHT OF WAY FOR PUBLIC ACCESS TO FOREST LAKE IN THE TOWN OF PALMER AND OF AN AREA FOR THE PARKING OF VEHICLES CONTIGUOUS TO SAID RIGHT OF WAY.

*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 Hampden county  
2 are hereby authorized and directed to lay out a right of way for  
3 public access to Forest lake in the town of Palmer, and an area  
4 for parking contiguous thereto, in accordance with plans to be  
5 approved by the department of public works and showing the  
6 location and dimensions of such right of way and parking area.  
7 If it is necessary to acquire land for the purpose of laying out  
8 such right of way or parking area, said county commissioners  
9 shall at the time such right of way or parking area is laid out  
10 take such land by eminent domain under chapter seventy-nine  
11 of the General Laws. Any person sustaining damages in his  
12 property by the laying out of such right of way or parking area,  
13 or by specific repairs or improvements thereon, shall be en-  
14 titled to recover the same under said chapter seventy-nine;  
15 provided, that the right to recover damages, if any, by reason of  
16 the laying out of such right of way or parking area shall vest upon  
17 the recording of the order of taking by said county commissioners  
18 and that no entry or possession for the purpose of constructing  
19 a public way on land so taken shall be required for the purpose  
20 of validating such taking or for the payment of damages by  
21 reason thereof.

1 SECTION 2. The town of Palmer from time to time may make  
2 specific repairs on or improve such right of way or parking  
3 area to such extent as it may deem necessary, but neither the  
4 county of Hampden nor any city or town therein shall be re-

5 quired to keep such right of way or parking area in repair, nor  
6 shall it be liable for injury sustained by persons traveling  
7 thereon; provided, that sufficient notice to warn the public is  
8 posted where such way enters upon or unites with an existing  
9 public way.

1 SECTION 3. All expenses incurred by said county commission-  
2 ers in connection with such right of way or parking area shall be  
3 borne by the county of Hampden, or by such cities or towns  
4 therein, and in such proportions as said county commissioners  
5 may determine.

1 SECTION 4. Said right of way or parking area shall not be  
2 discontinued or abandoned without authority therefor from the  
3 general court.

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