

The Commonwealth of Massachusetts

SPECIAL REPORT OF THE DEPARTMENT OF
PUBLIC WORKS AND THE ATTORNEY-GEN-
ERAL RELATIVE TO PUBLIC ACCESS TO
LITTLE ALUM POND IN THE TOWN OF
BRIMFIELD.

[Harbors and Public Lands.]

OCTOBER 21, 1947.

*To the Honorable Senate and House of Representatives of the Common-
wealth 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 Little Alum Pond in the town of Brimfield.

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 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.

Pursuant to this statute, a petition, suitably signed, was filed with the Department of Public Works on April 21, 1947, in regard to Little Alum Pond in the town of Brimfield.

The petition read as follows:

We, the Hamilton Rod and Gun Club and the undersigned, wish to petition the Department of Public Works to establish a right of way to Little Alum Pond situated in the town of Brimfield.

A public hearing, of which notice was sent to the petitioners and all parties known to be interested, was held on May 27, 1947, at which persons were given full opportunity to be heard and to present evidence and arguments. At this hearing Assistant Attorney General William S. Kinney sat with Associate Commissioner George G. Hyland of the Department of Public Works.

It appears that Little Alum Pond is a flowed pond of approximately sixty acres in area. The natural pond area is probably at least one half this area, though the natural area of the pond has never been accurately determined. The pond is not used as a source of water supply, and apparently not used for manufacturing or mercantile purposes. The use of the water in the pond would not be affected by providing a means of public access.

A dam is located at the outlet on the easterly side of the pond, and according to records on file in the Department, said dam raises the height of water in the pond some four or five feet.

On the south and southwest sides of the pond there has been some development along the shore and numerous camps have been built. The roads leading to these sections of the pond are dirt roads, in fair condition and privately owned. The pond is rather inaccessible from these roads as they are well up on the side hill, and access to the shore would seem to be undesirable because of the steep down grade necessary to reach the shore of the pond.

A hard surfaced public road runs along the east side of the pond, Little Alum Pond Road, and at the outlet

of the pond the road runs very close to the shore of the pond. It appears that this would be the shortest route to the pond, but the location offers very little in the way of parking facilities because of the surrounding terrain.

About 2,700 feet northerly along Little Alum Pond Road, from the outlet a public gravel road, namely, Shaw Road, runs westerly from Little Alum Pond Road to the north end of the Pond. Approximately 800 feet westerly along Shaw Road from Little Alum Pond Road, on the southerly side of Shaw Road, is a rather sizable field which would afford ample parking facilities. From Shaw Road to the shore of the pond is about 500 feet, and it would appear that this location is best suited for the right of way for public access and parking area.

Those present at the hearing testified that the most desirable location would be the above mentioned one in so far as it afforded better facilities for parking of vehicles. No one appeared in opposition.

As it appears that no right of way for public access exists to Little Alum Pond, the Board, therefore, recommends that the county commissioners of Hampden County be authorized and directed to lay out a public landing on the north side of the pond, and to extend the public highway to this landing substantially in the location above mentioned, and to lay out a parking area contiguous to said way as near the shore of the pond as practicable, and submits the attached bill for carrying out this recommendation.

Respectfully submitted,

THE DEPARTMENT OF PUBLIC WORKS.

W. H. BURACKER,
Commissioner.

GEORGE G. HYLAND,
RALPH A. PALLADINO,
Associate Commissioners.

DEPARTMENT OF ATTORNEY GENERAL.

WILLIAM S. KINNEY,
Assistant Attorney General.

PROPOSED LEGISLATION.

The Commonwealth of Massachusetts

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

AN ACT PROVIDING FOR THE ESTABLISHMENT OF A RIGHT OF WAY FOR PUBLIC ACCESS AND AN AREA FOR THE PARKING OF VEHICLES CONTIGUOUS TO SAID RIGHT OF WAY TO LITTLE ALUM POND IN THE TOWN OF BRIMFIELD.

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 Hamp-
2 den county are hereby authorized and directed to lay
3 out in the town of Brimfield a right of way for public
4 access and an area for parking facilities contiguous to
5 said right of way to Little Alum pond in the town of
6 Brimfield, in accordance with plans to be approved by
7 the department of public works and showing the
8 location and dimensions of such right of way and park-
9 ing area. If it is necessary to acquire land for the
10 purpose of laying out such right of way or parking
11 area said county commissioners shall at the time such
12 right of way or parking area is laid out take such land
13 by eminent domain under chapter seventy-nine of the
14 General Laws. Any person sustaining damages in
15 his property by the laying out of such right of way or
16 parking area, or by specific repairs or improvements
17 thereon, shall be entitled to recover the same under
18 said chapter seventy-nine; provided, that the right

19 to recover damages, if any, by reason of the laying
20 out of such right of way or parking area, shall vest
21 upon the recording of the order of taking by said
22 county commissioners, and that no entry or possession
23 for the purpose of constructing a public way or park-
24 ing area on land so taken shall be required for the pur-
25 pose of validating such taking or for the payment of
26 damages by reason thereof.

1 SECTION 2. The selectmen of the town of Brimfield
2 from time to time may make specific repairs on or
3 improve such right of way or parking area to such
4 extent as they may deem necessary, but neither the
5 county of Hampden nor any city or town therein shall
6 be required to keep such right of way or parking area
7 in repair, nor shall they be liable for injury sustained
8 by persons travelling thereon; provided, that sufficient
9 notice to warn the public is posted where such way
10 enters upon or unites with an existing public way.

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

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

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

