

REPORT OF THE SPECIAL COMMISSION
RELATIVE TO OPPORTUNITIES FOR
ACCESS BY THE PUBLIC TO BEACHES
AND OTHER POINTS ON THE SEA-
SHORE.

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

The Special Commission appointed under the provisions of chapter 26 of the Resolves of 1925 respectfully submits this report of its investigation relative to opportunities for access by the public to beaches and other points on the seashore.

The resolve is as follows:

Resolved, That an unpaid commission, consisting of the commissioner of public works, the commissioner of public safety and the commissioner of conservation, be established for the purpose of studying and investigating the existing opportunities for access by the public to the beaches and other points on the seashore and of considering whether further opportunities as aforesaid should be provided by the establishment of new reservations or the enlargement of existing reservations. If, in the opinion of the commission, existing reservations should be enlarged or new reservations acquired, it shall consider what part, if any, the commonwealth should take, and what part should be taken by cities, towns and counties or by districts now existing or to be created for the purpose, in the acquisition, improvement and maintenance of such reservations and in meeting the expenditures incidental thereto. The commission, for the purposes aforesaid, may expend out of such amount, not exceeding five hundred dollars, as the general court shall appropriate, such sums as the governor and council approve, and shall report its estimates and recommendations, with drafts of legislation, if any, embodying such recommendations, to the general court by filing the same with the clerk of the senate not later than December fifteenth of the current year, and shall at the same time file copies of such report with the governor and the budget commissioner.

The Commission has had the assistance of the report made by the Joint Special Committee on Public Reservations appointed under the provisions of an order adopted by the Legislature of 1924, including also the records of the public hearings given by that committee, which has so thoroughly covered the existing situation with respect to public access to beaches that this Special Commission decided that additional public hearings would not add any new information of value to that already available.

There is ample evidence of a growing desire on the part of the public to secure access to the beaches which constitute such an attractive feature of many miles of the shore line of Massachusetts. The automobile has made it possible for a large number of people to visit the shore whose homes may be many miles away, but the more attractive beaches readily accessible from the larger centers of population are being rapidly brought under the control of the owners of the foreshore, who quite naturally desire a privacy that is inconsistent with the admission of the general public.

Even the residents of localities including attractive beaches which they have long been accustomed to visit without restraint now find that they are excluded by the owners who have developed the foreshore for summer homes. It is recognized, however, that this growing desire on the part of the public to visit these beaches cannot be met without due regard to the rights of such owners and to the future interests of the local community.

It is unnecessary to do more than refer to the fact that judicial decisions have made it clear that the owner of the foreshore bordering on tidewater and the flats appurtenant thereto, except in a few

cases where early grants or legislation has provided otherwise, has ownership to the extreme low water line, or a line not exceeding one hundred rods from high-water line, and is, therefore, able to exclude the public from his beach or shore, except possibly for the purposes of "navigation, fishing and fowling."

The speakers at the public hearing given at Hyannis by the special committee were practically unanimous in their opposition to giving the State control of shore reservation in the towns on Cape Cod. They wanted the towns to retain their authority, although there was a general agreement favorable to the State's co-operating with and assisting the towns in financing the cost of such reservations.

There are many existing opportunities for the creation of shore reservations where the public may have access to the beaches and foreshore without serious interference with existing private development. There are probably existing reservations that should be enlarged, but it seems to this Commission that the selection of sites for shore reservations and the enlargement of existing reservations is a matter that should be left to the decision of the community in which they are located.

There are questions entering into this matter which cannot be determined by a general rule or provision of law applying alike to all localities. Therefore, it is the opinion of this Commission that cities and towns should not only acquire such beaches and foreshores as public interest and convenience may require, but that they should also operate and control them. The Commission does not believe that the State should assume such functions without first giving to a city or town the opportunity under adequate provisions of law, to fur-

nish such facilities as in their judgment and with their knowledge of all the conditions will best meet the requirements of the public.

It is believed that the cost of creating shore reservations has been overemphasized from too much consideration of those beaches the foreshores of which have been developed and expensive improvements made. It is our observation that persons visiting the shore for a few hours' recreation prefer to find it as Nature made it. Therefore, no great amount of money need be expended to prepare a shore reservation for its proper use by the public.

If bathing is to be allowed the necessary facilities should be provided but made self-sustaining. In the opinion of the Commission camping should not be allowed on a public shore reservation. It would be found very difficult to enforce adequate measures for the proper sanitation and policing of such use of a reservation, especially if located at a distance from centers of municipal control.

Some sanitary protection and police control will be required on reservations even though camping is prohibited, as the grounds must be kept free from litter or conditions which might create or disseminate disease. Policing must be depended upon to prevent disorderly conduct and to prevent fires.

The State may assist in the construction of roads to shore reservations in somewhat the same manner that it now makes contributions towards the cost of constructing certain town and county roads.

In the event of the failure of the local organization in control of the reservation to maintain order and proper sanitary conditions, appeal should be made to the authorities of the State authorized by law to deal with such situations.

Before recommending new legislation, the Com-

mission wishes to call attention to the authority provided by chapter 45, General Laws, for the creation of public parks, playgrounds and public domain, which in our judgment might also include the creation of shore reservations. In fact, the town of Scituate has recently taken over so-called Peggotty Beach in said town under the provisions of this law.

The attention of the Commission has been called to the possible utilization of the Trustees of Public Reservations, incorporated under chapter 352 of the Acts of 1891, as an organization which might be authorized by suitable legislation to have charge of the creation of shore reservations, and we therefore submit this suggestion for your consideration.

Assuming, however, that a law applying only to shore reservations is desirable, the Commission recommends that certain cities and towns bordering on tidewater be authorized to establish a board of Public Reservation Commissioners, vested with sufficient authority to take and develop for public use such beaches and foreshores within their confines as they may determine will meet the needs of their own community and of the visiting public.

A draft of a bill to carry this recommendation into effect is herewith submitted.

No expenses have been incurred in connection with this investigation.

WILLIAM F. WILLIAMS,

Commissioner of Public Works.

ALFRED F. FOOTE,

Commissioner of Public Safety.

WILLIAM A. L. BAZELEY,

Commissioner of Conservation.

PROPOSED LEGISLATION.

AN ACT TO PROVIDE FOR PUBLIC RESERVATIONS AND ACCESS
THERETO IN CERTAIN CITIES AND TOWNS BORDERING
ON TIDEWATER.

Be it enacted, etc., as follows:

SECTION 1. The mayor of a city bordering on tidewater and not included in the metropolitan district as defined in chapter ninety-two of the General Laws may, with the approval of the city council, appoint a board of public reservation commissioners for said city, consisting of five persons, who shall serve without compensation and hold office for terms of one, two, three, four and five years, respectively, from the first Monday in May next following such appointment, or until their successors are qualified; and thereafter the mayor shall annually before the first Monday in May, with like approval, appoint one such commissioner for a term of five years from said first Monday in May. No member of the city council, clerk or treasurer of such city shall be such commissioner. In cities a vacancy in such board shall be filled in like manner for the residue of the unexpired term. A commissioner may be removed by a vote of all the members of a city council.

SECTION 2. A town bordering on tidewater and not included in the metropolitan district as defined in chapter ninety-two of the General Laws may elect a board of public reservation commissioners for said town, consisting of three persons, who shall serve without compensation, and hold office for terms of one, two and three years, respectively, from the first Monday in May next following such election, or until their successors are elected; and thereafter the town shall annually before the first Monday in May elect one such commissioner for a term of three years from said first Monday in May. No member of the board of selectmen, clerk or treasurer of such town shall be such commissioner. In towns a vacancy in such board shall be filled as provided in section eleven of chapter forty-one of the General Laws. A commissioner may be removed by a vote of the town.

SECTION 3. Said commissioners for a city or town may from time to time acquire by purchase or otherwise or take

by eminent domain under chapter seventy-nine of the General Laws any land, flats, upland, foreshore, or easement or right therein, within the city or town not already appropriated to public use, for the purpose of creating a public reservation, but no land, flats, upland, foreshore, or easement or right therein shall be taken or purchased unless the taking or purchase thereof has previously been authorized by the city council or by vote of the town, nor until an appropriation of money, to be raised by loan or otherwise, has been made for the purpose by a two thirds vote of the city council or by a two thirds vote of the town. Said commissioners may also take and hold in trust or otherwise any grant, gift, bequest or devise made for the purpose of laying out or improving any such public reservations.

SECTION 4. A city, town or the county in which a public reservation has been created under this act shall, for the purpose of providing access thereto, lay out, construct and thereafter maintain a public highway, or reconstruct, extend, widen or otherwise improve an existing way. A city, town or county in which a public reservation has been created under other authority of law shall for said purpose lay out, construct and thereafter maintain a public highway, or reconstruct, extend, widen or otherwise improve an existing way. The work of constructing and reconstructing such public highways and existing ways shall be carried out in accordance with plans approved by the division of highways of the department of public works, and the cost of the work shall be paid by said division, acting on behalf of the commonwealth, and the city or town and county, in such proportion as shall be determined by said division.

SECTION 5. Said commissioners shall have charge of such public reservations, and may make from time to time rules and regulations for the use of the same by the public as open spaces for exercise and recreation.

