

By Mr. Brett of Quincy, petition of Joseph E. Brett for regulating further the filling or dredging of certain wet areas bordering coastal waters. Harbors and Public Lands.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Seven.

AN ACT FURTHER REGULATING THE FILLING OR DREDGING OF CERTAIN WET AREAS BORDERING COASTAL WATERS.

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

1 Chapter 130 of the General Laws is hereby amended by
2 striking out section 27A, as most recently amended by
3 chapter 375 of the acts of 1965, and inserting in place thereof
4 the following section:—

5 *Section 27A.* No person shall remove, fill or dredge any
6 bank, flat, marsh, meadow or swamp bordering on coastal
7 waters without written notice of his intention to so remove,
8 fill or dredge to the board of selectmen in a town or to the
9 city council in a city, to the state department of public works,
10 and to the director of marine fisheries. It shall contain, in
11 substantial detail, the nature of the work proposed. The
12 selectmen or, in the case of a city, the city council shall hold a
13 hearing on said proposal within thirty days of the receipt of
14 said notice, notice of which hearing shall be given by them by
15 publication at least ten days prior to the date of said hearing
16 in a newspaper published in such town or city, or if there be
17 no newspaper published in such town or city, then in a
18 newspaper published within the county, and shall notify by
19 mail at least ten days prior to the date of said hearing the
20 person intending to do such removing, filling or dredging, the
21 department of public works and the director, of the time and
22 place of said hearing. The cost of such publication of notice

23 shall be borne by the person filing the notice of intention to
24 so remove, fill or dredge. The approval and disapproval and
25 the decision of the board of selectmen or city council shall be
26 transmitted, in writing, to such person within seven days of
27 said hearing and shall include any special conditions which it
28 may wish to impose. The selectmen or city council, as the
29 case may be, may recommend the installation of such
30 bulkheads, barriers or other protective measures as may
31 protect the public interest. If the department of public works
32 finds that such proposed removing, filling or dredging would
33 violate the provisions of sections thirty and thirty A of
34 chapter ninety-one, it shall proceed to enforce the provisions
35 of said sections. If the area on which the proposed work is to
36 be done contains shellfish or is necessary to protect marine
37 fisheries, the said director may impose such conditions on said
38 proposed work as he may determine necessary to protect such
39 shellfish or marine fisheries, and work shall be done subject
40 thereto.

41 Any person aggrieved by a decision of the board of
42 selectmen or city council, whether or not previously a party
43 to the proceeding, or any municipal officer or board, may
44 appeal to the superior court for the county in which the land
45 concerned is situated, by filing a bill in equity within twenty
46 days after the decision has been filed in the office of the city
47 or town clerk. Notice of the filing with a copy of the bill in
48 equity shall be given to such city or town clerk so as to be
49 received within such twenty days. The bill shall allege that
50 the decision exceeds the authority of the board of selectmen
51 or city council and any facts pertinent to that issue, and shall
52 contain a prayer that the decision be annulled. There shall be
53 attached to the bill a copy of the decision appealed from,
54 bearing the date of filing thereof, certified by the city or town
55 clerk with whom the decision was filed.

56 Where the bill is filed by someone other than the original
57 applicant, appellant or petitioner, such original applicant,
58 appellant or petitioner and all the members of the board of
59 selectmen or of the city council shall be named as parties
60 respondent with their addresses. To avoid delay in the
61 proceedings, instead of the usual service of process on a bill in
62 equity, the plaintiff shall within fourteen days after the filing

63 of the bill in equity give written notice thereof, with a copy
64 of the bill by delivery or certified mail to all respondents,
65 including the members of the board of selectmen or of the
66 city council and shall, within twenty-one days after the entry
67 of the bill file with the clerk of the court an affidavit that
68 such notice has been given. If no such affidavit is filed within
69 such time the bill shall be dismissed. No answer shall be
70 required but an answer may be filed and notice with a copy
71 and an affidavit of such notice given to all parties as above
72 provided within seven days after the filing of the answer.
73 Other interested persons may be permitted to intervene, upon
74 motion. The clerk of the court shall give notice of the hearing
75 as in other cases without jury, to all parties, whether they
76 have appeared or not. The court shall hear all evidence
77 pertinent to the authority of the board of selectmen or of the
78 city council and determine the facts, and, upon the facts as so
79 determined, annul such decision if found to exceed the
80 authority of such board of selectmen or of the city council, or
81 make such other decree as justice and equity may require.
82 The foregoing remedy shall be exclusive, but the parties
83 shall have all rights of appeal and exception as in other
84 equity cases.

85 Whoever violates any provision of this section shall be
86 punished by a fine of not less than one thousand dollars nor
87 more than five thousand dollars or by imprisonment for not
88 more than six months, or both, and the superior court shall
89 have jurisdiction in equity to restrain a continuing violation
90 of this section.

91 This section shall not affect or regulate the ordinary and
92 usual work of any mosquito control project operating under
93 chapter two hundred and fifty-two, or under the provisions
94 of a special act.

The first part of the report is devoted to a general
 description of the country and its resources. It
 is followed by a detailed account of the
 various industries and occupations of the
 people. The report then proceeds to a
 description of the climate and the
 diseases which are prevalent in the
 country. It concludes with a list of the
 principal towns and villages in the
 district.