HOUSE . . . . . No. 900

By Mr. Brett of Quincy, petition of the Massachusetts State Federation of Women's Clubs and another for an accelerated program of land acquisition to create the Boston Harbor recreation, conservation and development program as a national recreation area and an historic site. Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy.

AN ACT PROVIDING FOR AN ACCELERATED PROGRAM OF LAND ACQUISITION TO CREATE THE BOSTON HARBOR RECREATION, CONSERVATION, AND DEVELOPMENT PROGRAM AS A NATIONAL RECREATION AREA AND HISTORIC SITE.

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. *Declaration of Policy.* — It is hereby declared that
2 the public interest in the islands, shoreline and waters of Boston
3 harbor is in their beneficial use for a variety of purposes; that
4 all islands, foreshores and conservation lands bordering Boston
5 harbor constitute a unique natural resource of great value to
6 the people of the commonwealth for the purpose of providing
7 increased opportunities for public outdoor recreation and edu-
8 cation close to the heart of a conjested urban area, for the pur-
9 pose of proper conservation and utilization of natural resources
10 and historic significance, and for the purpose of providing op-
11 portunities for water oriented development of maximum public
12 benefit; that the public has an interest in the islands, foreshores
13 and waters as the most valuable single resource of the entire
14 metropolitan area; that the harbor is a single body of water
15 that can be used for many purposes but that the harbor oper-
16 ates as a delicate physical mechanism in which changes that
17 affect one part of the harbor may also affect all other parts.
18 It is further declared that, unless affirmative action is taken,
19 these objects will not be realized and these lands will become a
20 blighted area and detrimental to the safety, health, morals, wel-
21 fare or sound preservation of the area, because the present un-

22 coordinated, haphazard manner in which the islands, foreshores
23 and waters of Boston harbor are being used threatens the natural
24 resource itself and is therefore inimical to the welfare of both
25 present and future residents of the commonwealth; that while
26 some individual projects may be necessary and desirable for the
27 needs of the entire metropolitan area, and while some cities and
28 towns may have prepared detailed master plans for their own
29 harbor lands and waters, the fact remains that no governmental
30 mechanism exists for evaluating individual projects as to their
31 effort on the entire harbor area; that further piecemeal develop-
32 ment of the harbor area may place serious restriction on the use
33 of the area, may destroy the irreplaceable feeding and breeding
34 grounds of fish and wildlife in the harbor area, may further ad-
35 versely affect the quality of harbor waters and even the quality
36 of air in the area, and would therefore be harmful to the marine
37 ecology and the needs of the present and future residents of the
38 commonwealth; that it is unduly costly to develop the area
39 soundly through the ordinary operations of private enterprise by
40 reasons of problems of access, by reason of the existence of un-
41 suitable soil or other geologic or physical conditions; by reason
42 of the need for unduly expensive foundations, causeways, re-
43 taining walls, or unduly expensive measures for water proofing
44 structures or for filling or draining the area, or for the prevention
45 of the flooding thereof or storm damage thereto, or for unduly
46 expensive measures incident to building around or over rights
47 of way and navigational channels in the area, or for otherwise
48 making the area appropriate for sound development; or by rea-
49 son of obsolete, inappropriate or otherwise faulty platting or
50 subdivision, deterioration of site improvements of facilities, loca-
51 tion of public facilities or operations which by reason of aban-
52 donment, obsolescence, present use or otherwise detract from
53 the optimum water oriented use of the area, division of the area
54 by rights of way, diversity of ownership and control among
55 public agencies and private owners, or inadequacy of transporta-
56 tion facilities or other utilities; or by the reason of difficulties
57 of development which will not endanger public welfare by harm-
58 ing the ecological values of benefit to the public, or by reason of
59 tax and special assessment delinquencies; or because there has
60 been a substantial change in business or economic conditions or
61 practices, or an abandonment or cessation of a previous use, or
62 by reason of any combination of the foregoing or other conditions.

Therefore, it is hereby declared to be the policy of the commonwealth that all islands and foreshores in and bordering Boston harbor should be immediately acquired by or transferred to an agency which shall thereafter hold and administer or transfer only to federal jurisdiction said lands in accordance with a comprehensive program for preservation of the waterways to be approved by the legislature which shall provide for the realization of these objectives, prevent the creation or continuation of conditions to the detriment of the public, promote the sound economic growth and well being of the public, in order to provide cleaner air, unpolluted beaches and water and necessary open space in a congested urban area. The acquisition of such lands by eminent domain or otherwise, and the planning, clearance, conservation, improvement and rehabilitation of such lands for governmental, recreational, educational, hospital, or other public purposes, including the provisions of piers, marinas, pavilions, paths and other island and/or water oriented facilities, are declared to be public uses and purposes for which public money may be expended and the power of eminent domain exercised, and in support of which private property may be regulated by wholesome and reasonable orders, laws and directions.

SECTION 2. *Accelerated Acquisition.* — The department of natural resources hereinafter referred to as the acquiring agency, is hereby authorized to acquire the fee or any lesser interest by gift, purchase or eminent domain under the provisions of chapter seventy-nine or chapter eighty A of the General Laws for the purposes of recreation and conservation under a program described in section five, such islands privately owned as are hereinafter named and such other property as may be necessary or expedient therefore: Greater Brewster, Middle Brewster, Outer Brewster, Bumkin, Calf, Little Calf, Gallop's, Grape, Green, Hangman's, Peddocks, Raccoon, Sheep, Slate, Spectacle, Thompson's together with islets, rocks, and foreshores adjacent thereto, provided that existing private uses not inconsistent with the purposes of this chapter may be permitted to continue subject to periodic review.

Said acquiring agency is further authorized to acquire by gift or otherwise without cost to the commonwealth, any island, rocks, flat land or portion thereof in Boston harbor owned by any city or town.

SECTION 3. *Other Commonwealth Lands.* — The acquiring agency shall designate such lands located in, under or bordering Boston harbor south of a line drawn from Castle island to the neck of Deer island which are owned or under the control of any department, commission or agency of the commonwealth and which are not actually being used as the site of a public facility, such as a park, recreation area, road, school, or sewage disposal site, and said lands shall thereafter be under the control of the acquiring agency for the purpose of this act.

SECTION 4. *Tidelands License.* — No license shall be issued under the provisions of chapter ninety-one for any tidelands bordering on or lands under Boston harbor without express legislative approval after the recommendations of the acquiring agency.

SECTION 5. *Administration.* — Lands acquired by or transferred to the acquiring agency shall be held and maintained for the purposes of this act under a program of maintenance and improvement pending the completion and approval of a comprehensive recreation, conservation plan for the area, and/or the acquisition by a federal department. The acquiring agency may expend such sums as may be appropriated therefor. The acquiring agency may expend such sums as may be provided by section six of this act for the development, redevelopment, construction and improvement of outdoor oriented recreation areas and educational facilities on lands acquired or transferred to it under this act.

SECTION 6. *Capital Outlay.* — The acquiring agency is hereby authorized and directed to expend a sum not to exceed five million dollars to carry out the provisions of sections two, five and eight of this act, including all expenses in connection therewith including planning, engineering, site feasibility tests, and design. To meet the expenditures necessary in carrying out the provisions of this act, the state treasurer shall, upon request of the governor and council, issue and sell at public or private sale bonds of the commonwealth, registered or with interest coupons attached, as he may deem best, to an amount to be specified by the governor and council from time to time, but not exceeding

in the aggregate the sum of five million dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Boston harbor islands Acquisition Act of 1969, and shall be on the serial payment plan for such maximum term of years, not exceeding twenty years, as the governor may recommend to the General Court pursuant to section three of Article LXII of the Amendments to the Constitution of the Commonwealth, the maturities thereof to be so arranged that the amounts payable in the several years of the period of amortization other than the final year shall be as nearly equal as in the opinion of the state treasurer it is practicable to make them. Said bonds shall bear interest semi-annually at such a rate as the state treasurer, with the approval of the governor, shall fix. The initial maturities of such bonds shall be payable not later than one year from the date of issue thereof, and the entire issue not later than June thirtieth, nineteen hundred and ninety-nine. Seventy-five per cent of all interest payments and payments on account of principal on such obligations shall be paid from the Metropolitan parks district commission funds, to be assessed by methods, fixed by law and the balance shall be paid by the commonwealth and/or by federal assistance.

SECTION 7. *Federal Funds.* — The acquiring agency shall have the authority to contract with agencies of federal government for the receipt of funds.

SECTION 8. *Planning.* — The acquiring agency together with the special commission created pursuant to chapter eighty-six of the resolves of nineteen hundred and sixty-six, to make an investigation and study relative to the use and development of lands near the mouth of the Neponset river and on the shores of Dorchester bay, as most recently revived and continued by chapter five of the resolves of nineteen hundred and sixty-nine or its successor agency shall prepare comprehensive plans to carry out the purpose of this act, may engage such consultants as are necessary, and shall submit the results of its investigation, study and planning to the legislature.

SECTION 9. *Severability.* — The provisions of this act hereby declared to be severable and if any such provision or the appli-

cation of such provision to any person or circumstances shall be held to be invalid or unconstitutional, such validity or unconstitutionality shall not be construed to affect the validity or constitutionality of any of the remaining provisions of said sections or the application of such provision to persons or circumstances other than those as to which it is held invalid. It is hereby declared to be the legislative intent that said sections would have been adopted had such invalid or unconstitutional provisions not been included therein.

SECTION 10. *Powers of Other Agencies.* — This act shall not be construed to limit the power or authority of any department, board or commission of the commonwealth or of any political subdivision thereof except where expressly provided otherwise herein; provided, however, that in, under or bordering the Boston harbor south of a line drawn from Castle island to the neck of Deer island there shall be no acquisition of land by eminent domain by other than the acquiring agency, and no public land on or bordering said area may be sold, leased or used as a dump or refuse disposal area, and no sand, gravel or soil may be removed therefrom or deposited thereon, and no structure may be built thereon, without the approval of the acquiring agency or federal agency.

SECTION 11. *Definition of Area.* — For the purposes of this act, Boston harbor shall be defined as the body of water west of a line drawn from Point Allerton in Hull to the Graves light house and south of a line drawn from the Graves light house to the most north westerly point of Deer island and east of a line drawn from the most northwesterly point of Deer island to the most northeasterly point of Castle island. This area includes Boston outer harbor, Dorchester bay, Quincy bay, Hingham bay, and Hull bay and including the waters and foreshores of all rivers, creeks and streams flowing into the harbor to the limits of tidal flow and, further, including all islands, mudflats or foreshores, marshes, lying within the area.