

**CITY DOCUMENT - NO.60;  
REPORT OF THE JOINT STANDING  
COMMITTEE ON BOSTON  
HARBOR, FOR THE YEAR 1852**

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# **JOINT STANDING COMMITTEE**

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REPORT

OF THE

JOINT STANDING COMMITTEE

ON

BOSTON HARBOR,

FOR THE YEAR

1852.

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BOSTON:  
1853.

J. H. EASTBURN, CITY PRINTER.

CITY OF BOSTON.

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*In Common Council, December 9, 1852.*

*Ordered,* That the Committee on the Harbor have authority to report in print; and if they are unable to report before the close of the year, that they be authorized to transmit their report to the next Council.

HENRY J. GARDNER, *President.*

*In Board of Mayor and Aldermen, December 13, 1852.*

Passed in concurrence.

BENJ. SEAVER, *Mayor.*

*Committee on Boston Harbor, for the year 1852.*

Benjamin S. Allen,  
Benjamin James,  
*of the Board of Mayor  
and Aldermen.*

Edward H. Eldredge,  
Samuel R. Spinney,  
David Hamblen,  
*of the Common Council.*

## REPORT.

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The Committee appointed, in the organization of the City Council, in the year 1852, in accordance with the provisions of the City Ordinance, relating to the preservation of Boston Harbor, passed November 12, 1846, and who were authorized by an order of the Council of the 9th and 13th of December, 1852, to report in print and to transmit their report to the present Council, have attended to their duty and submit the following

### REPORT:

Very soon after their appointment, the attention of the Committee was called to their duty, by the reference to them of several orders of notice upon petitions to the General Court, praying for permission to extend wharves and make other improvements in and around the harbor. With a strong desire to give the questions, thus presented to them, that careful examination which their importance demanded, the Committee encountered great difficulty from the want of accessible and authentic information. It was obviously necessary that they should understand the common law and the history of past Legislative action in regard to the subject, as well as the original conformation of the harbor, and the mode in which that had been affected by natural or artificial causes.

In considering the petitions referred to, the Committee gave hearings to several of the parties in interest, and

from various other sources obtained such information as lay in their power; a great amount of conflicting testimony was thus adduced, which further impressed upon them the necessity of obtaining an accurate and reliable statement of all the facts bearing upon the subject.

To obtain these facts and to state them in a methodical form became then their primary object, and though they soon found that their term of office was likely to expire before that object could be accomplished, they were encouraged to proceed with their investigations by the hope that their labors might alleviate those of their successors, and perhaps suggest such a course of action as should perpetuate the knowledge and experience gained from year to year, in such a shape as to be of service to the City.

The Harbor of Boston extends from a cluster of islands on the east, called the Brewsters, to the head of tide water in the Charles and Mystic rivers and the South Bay. An essential difference in the two portions of the harbor and the necessity of entirely different treatment for their preservation, have led to a distinction between the outer and inner harbors; the outer harbor reaching from the ocean to a line passing through Governors' Island, north and south, and the inner harbor comprising all the tide waters to the westward of that line.

The outer harbor is protected from the encroachments of the ocean by several islands, which are indeed the chief bulwarks of the harbor; they break the sea as in violent storms it rolls furiously in from the ocean, and make comparatively still water and safe anchorage ground within. They serve, too, an important purpose in directing the tide-waters, as they ebb and flow through the main channels, thus maintaining a depth of water sufficient for the largest vessels. But exposed as they are to the full force of our easterly gales, and to constant abra-



sion by the sea, these islands and the external headlands of the harbor are continually wasting away. Very important changes have already taken place; islands which less than a century ago were sufficiently large to be occupied as sheep pastures, have entirely disappeared. Of Bird Island and Nix Mate, for example, nothing now remain but shoals, covered by the tide at high water. These changes, however serious in themselves, have been attended by others still more alarming; the debris thus washed away from island and headland, have in process of time formed new shoals, and in some places created bars or spits which project from the islands in dangerous proximity to the main channels.

The City Government have made great exertions in previous years to apprise Congress of these important facts, and their earnest representations have not been without effect, very considerable sums of money having been appropriated by the National Legislature, for the purpose of erecting sea walls on several of the islands to prevent the further injurious action of the sea. A statement of what has been already done by the government of the United States, will be found in another part of this report; and it will also thence appear, that although much has been done, there yet remains much to do for the protection and preservation of the outer harbor.

The deteriorating causes which act upon the inner harbor are different in their nature, and although as yet no essential injury has been produced, they are not less to be feared and guarded against. The channels of the harbor being formed and continued by the tide-waters passing to and from the great reservoirs of the Charles and Mystic Rivers and the South Bay, and the scouring or deepening effect of the tides in passing through the channels, being in proportion to the quantity and velocity

of the ebb—it follows as a natural result, that any material reduction in the area of those reservoirs must necessarily reduce the quantity of water and diminish the velocity of the current, and thus injuriously affect the channels. It therefore becomes a matter of the first importance to protect these reservoirs from encroachment, and to maintain as nearly as possible their natural and ancient size or water capacity.

From the best information to be obtained it appears that the original area of the inner harbor, including channels, flats and marsh lands, covered by high tides, as specified in the report of the City Engineer, did not vary much from seven thousand two hundred and twenty-eight acres. The present area covered by high tides, as stated in the same report, is as follows, viz :—

Of Charles River, above Charles River bridge,	1,101 acres.
Of Mystic River, above Chelsea bridge,	838
Of Miller's River and Prison Bay,	219
Of South Bay above South Boston bridge,	316
Of all other waters,	3,385
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In all,	5,859 acres.

Thus it appears that the original water area has been diminished one thousand three hundred and sixty-nine acres.

Of the area covered at the present time by high tides, one thousand and thirty-four acres are within the lines claimed by riparian owners, and if they held a legal title to the same, without restriction as to use, the harbor might be filled up and the tide forever excluded to that extent.

It is from the injudicious use of their property by these riparian owners, and from the improper filling up

of portions of those ancient reservoirs that the principal danger to the inner harbor is to be apprehended. The reduction of the original area of the harbor already noticed, has been chiefly caused by such encroachments, the nature and extent of which and their effect upon the City and the harbor respectively, are strikingly exhibited upon a map prepared by the City Engineer, at the request of the Committee, and attached to this report.

The nature and extent of the jurisdiction of the Commonwealth over the flats in the harbor have been the subjects of very considerable discussion, and have received the attention of several boards of commissioners appointed by the General Court.

The title of the Commonwealth is founded in the first place, on the right of eminent domain, the right which every sovereign State possesses of disposing of all the property within its jurisdiction, as the safety and well being of the whole may require; but if, in the exercise of this right, private property be taken for public use, the State is bound by the Constitution to make compensation therefor.

There is also a title vested in the Commonwealth to what is termed "the soil of the sea," that is, to the land covered by tide waters within its territorial limits; being a right to the ground only, while the right of passage over it, is common to every individual in the community.

It is not proposed to consider this part of the subject in detail—the title as claimed for the State is here simply stated, and reference is made to the able exposition of the law contained in the report of the Commissioners appointed under the legislative resolve of May 3d, 1850.\*

\* See page 42 of the Appendix.