

ANNUAL REPORT  
OF THE  
RIPARIAN COMMISSIONERS

OF THE  
STATE OF NEW JERSEY,

For the Year 1898,

*With Accompanying Documents.*



TRENTON, N. J.:  
THE J. L. MURPHY PUB. CO., PRINTERS.  
1898.

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## RIPARIAN COMMISSIONERS.

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Acting Governor DAVID O. WATKINS, <i>Chairman</i> ,	GLoucester, N. J.
WILLARD C. FISK, <i>Vice Chairman</i> ,	JERSEY CITY, N. J.
MILES ROSS,	NEW BRUNSWICK, N. J.
JOHN I. HOLT,	PATERSON, N. J.
WILLIAM CLOKE,	TRENTON, N. J.

(8)

## COMMISSIONERS' REPORT.

*To His Excellency David O. Watkins, Acting Governor of New Jersey :*

In compliance with the requirements of the law, the State Board of Riparian Commissioners beg leave to submit their report for the year ending October 31st, 1898.

The financial operations of the Board during the year are set forth in detail in the report of the Secretary and Engineer. The total receipts of the Board from all sources aggregated \$85,618.41, derived from the following sources :

Grants in fee.....	\$13,409 30
Conversions of leases into grants .....	21,500 75
New leases .....	2,547 93
Licenses.....	875 00
Rentals on old leases .....	47,159 57
Rentals on new leases.....	125 86
Total.....	\$85,618 41

As the summary of its year's work given in the report of the Secretary and Engineer will show, the operations of the Board during the year have been varied and extensive, involving a large amount of careful investigations and numerous trips by committees of the Board to different parts of the State. These visits of inspection are made to ascertain the value of riparian lands for which application has been made. It has been found that in no other way can a just and satisfactory value be placed upon such lands. It is only by careful personal inspection and the ascertainment of a large number of facts that enter into each case, such as the depth of water, the distance from important stopping points, the character of the shore, the rise and fall of the tide, that the value of the applied-for grant can be fairly determined. The value will often vary, accordingly as these factors vary, to a very considerable extent, even within a short distance, on the

same water front. In one case a grant might be applied for where the high ground runs down to a good depth of water in a town. In another case application might be made for the riparian grant a mile or two distant on the same stream, and even nearer the open sea, but fronting on a wide and desolate expanse of unclaimable salt marsh that makes the use of the grant for shipping purposes impossible. The value of the grant would be four to five times greater in one case than in the other.

Some years ago the Board arranged and adopted a schedule of prices for the riparian lands on all the navigable waters of the State, the values being fixed on abstract principles and not on such concrete facts as would enter into and should, in equity, concern each case. But the Commissioners were constantly confronted with the difficulties and injustices that such a fixed schedule involved, and by experience it appears that a more elastic system of putting a price upon the lands applied for should be adopted.

Accordingly, the schedule was abolished some years ago except as a general guide, and the Board adopted the rule of sending a committee, with the Engineer, to examine and determine the value of every grant for which application is made. This system has operated very satisfactorily to all concerned. Persons applying for riparian lands are sure that the price will be fixed on a real and not an iron-clad and artificial basis, while the State receives a fair and legitimate price for its property.

The Board has heard much complaint during the year of the needless obstruction of the flow of certain tidal streams by railroad bridges. The complaint is that the piling is placed too close together and is grouped so as not to accommodate the flow of water, and that when these piles wear out and become unserviceable and new ones are put in, the old ones are allowed to remain instead of being removed, the result being that the bridge becomes almost as compact as a solid bulkhead and the flow of water is retarded. Most of these complaints have come from along the seashore, at Avon, Belmar and Point Pleasant, where, it is claimed, the flow of the Shark and Manasquan rivers is seriously impeded in this way. The railroad company has, through its officers, promised to remedy the matter by removing the old piling and widening the spaces between the piers.

It was expected by the Board that, as a result of the law of 1898, which removed the inhibition of a former enactment from the sale or

lease of riparian lands in front of the Palisades for commercial purposes, there would be a large demand for riparian grants along the Hudson river frontage for such purposes, but for some reason these expectations have not yet been realized. But the law opens up the sale or lease of State property worth hundreds of thousands of dollars that the law of 1895 absolutely locked up and made unavailable.

The Board proposes to continue during the coming year the policy it has pursued of discovering and bringing to book the trespassers upon the riparian lands of the State, a policy that has added several thousand dollars to the riparian fund.

Respectfully submitted,

WILLARD C. FISK,  
MILES ROSS,  
JOHN I. HOLT,  
WILLIAM CLOKE.

Dated October 31st, 1898.

## ENGINEER'S REPORT.

*To the Riparian Commissioners of the State of New Jersey:*

GENTLEMEN—The following tabular statement shows the grants, leases and licenses made by the Riparian Commission during the year ending October 31st, 1898, the names of the grantees or lessees, dates, localities and amounts paid or secured to be paid to the State:

GRANTS.				
Date.	To Whom Made.	Locality.	County.	Amount.
1886.				
Jan. 16.	Mayor and Council of Bayonne.....	New York Bay, Kill von Kull and Newark Bay.....	Hudson.....	Nominal.
1897.				
Aug. 31.	Frank M. Stratton.....	Hackensack River.....	Bergen.....	\$100 00
Sept. 16.	James Latta & Son.....	Delaware River.....	Burlington.....	526 50
Oct. 7.	Wm. Bridgewater.....	Atlantic Ocean.....	Cape May.....	100 00
Oct. 7.	Simon Bardsley.....	Great Egg Harbor Bay.....	Cape May.....	100 00
Oct. 7.	George W. Jackson.....	Atlantic Ocean.....	Atlantic.....	750 00
Oct. 28.	Sophie C. Henderson.....	Hackensack River.....	Bergen.....	163 93
Oct. 28.	The Ocean City Association.....	Great Egg Harbor Bay.....	Cape May.....	325 00
Dec. 2.	James H. Linn.....	Great Egg Harbor Bay.....	Cape May.....	62 50
Dec. 30.	Chas. F. Brooks.....	Toms River.....	Ocean.....	800 00
Dec. 30.	Anna M. D. Jeffery.....	Delaware River.....	Burlington.....	228 00
Dec. 30.	Sanitary Enameled Clay Co.....	Delaware River.....	Burlington.....	120 00
1898.				
Feb. 10.	The Atlantic Refining Co.....	Delaware River.....	Burlington.....	282 00
Feb. 10.	Geo. and Hannah S. Hayday.....	Great Egg Harbor Bay.....	Cape May.....	300 00
Feb. 10.	Geo. and Hannah S. Hayday.....	Great Egg Harbor Bay.....	Cape May.....	542 50
Feb. 10.	Benjamin G. Barnett.....	Great Egg Harbor Bay.....	Cape May.....	128 85
Feb. 10.	Thos. S. Mitchell.....	Great Egg Harbor Bay.....	Cape May.....	128 85
Feb. 10.	Dundee Chemical Works.....	Passaic River.....	Passaic.....	300 00
Feb. 10.	Ocean City.....	Great Egg Harbor Bay.....	Cape May.....	Nominal.
Feb. 24.	Chas. B. Wheeler.....	Manasquan River.....	Ocean.....	50 00
Mar. 18.	Shark River Amusement Co.....	Shark River.....	Monmouth.....	150 00
Mar. 31.	Wm. I. Walker.....	Shrewsbury River.....	Monmouth.....	450 00
Mar. 31.	Wm. J. Riker.....	Shrewsbury River.....	Monmouth.....	300 00
April 28.	Prescott & Littlefield.....	Passaic River.....	Passaic.....	600 00
May 26.	John Hagenbotham.....	Great Egg Harbor Bay.....	Atlantic.....	158 96
May 26.	Wm. H. Holmes.....	Great Egg Harbor Bay.....	Atlantic.....	40 00
May 26.	Allen B. Barber.....	Great Egg Harbor Bay.....	Atlantic.....	70 00
May 26.	Chas. W. Potts.....	Great Egg Harbor Bay.....	Atlantic.....	217 28
May 26.	Townsend & Van Sant.....	Great Egg Harbor Bay.....	Atlantic.....	250 00
May 26.	John G. Miller.....	Great Egg Harbor Bay.....	Atlantic.....	101 48
May 26.	Ocean City Association.....	Atlantic Ocean.....	Cape May.....	750 00
May 26.	Chas. G. Ivins.....	Great Egg Harbor Bay.....	Atlantic.....	55 14
June 31.	Frank Steelman.....	Great Egg Harbor Bay.....	Atlantic.....	47 86

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June 30.	Japhet Booye.....	Great Egg Harbor Bay.....	Atlantic.....	50 00
June 30.	Ocean City Association.....	Great Egg Harbor Bay.....	Cape May.....	1,000 00
June 30.	Cortlandt Parker.....	Overpeck Creek.....	Bergen.....	50 00
June 30.	Bergen County Traction Co.....	Overpeck Creek.....	Bergen.....	50 00
June 30.	Mary E. Hadley.....	Passaic River.....	Passaic.....	77 00
July 28.	George W. Elliott.....	Shrewsbury River.....	Monmouth.....	395 00
July 28.	Ernst Bruno.....	Overpeck Creek.....	Bergen.....	25 00
July 28.	Harriett Van Boskerck.....	Hackensack River.....	Bergen.....	69 20
Sept. 1.	Andrew H. McNeal.....	Delaware River.....	Burlington.....	625 50
Sept. 1.	McNeal Pipe and Foundry Co.....	Delaware River.....	Burlington.....	1,965 00
Sept. 15.	James F. Davis.....	Great Egg Harbor Bay.....	Cape May.....	425 00
Sept. 15.	J. V. H. and Reuben B. Rapp.....	Great Egg Harbor Bay.....	Cape May.....	131 25
Sept. 15.	Ocean City Association.....	Atlantic Ocean.....	Cape May.....	250 00
Sept. 15.	Robert M. Thompson.....	Great Egg Harbor Bay.....	Cape May.....	97 50
				<u>\$13,409 30</u>

## CONVERSIONS.

Date.	To Whom Made.	Locality.	County.	Amount.
1897.				
Dec. 30.	New York, Ontario and Western Railway. Conversion of lease to Thos. P. Fowler.....	Hudson River.....	Hudson.....	\$17,009 50
1898.				
Feb. 10.	W. D. Ellis and T. M. Leonard. Conversion of lease to John Ellis & Co.....	Hudson River.....	Bergen.....	4,350 00
Mar. 18.	Shark River Amusement Co. Con- version of part of lease to Ocean Beach Association.....	Shark River.....	Monmouth.....	141 25
				<u>\$21,500 75</u>

## LEASES.

Date.	To Whom Made.	Locality.	County.	Principal Sum.
1898.				
Feb. 10.	The Ocean City Association.....	Great Egg Harbor Bay.....	Cape May.....	\$1,047 93
Sept. 1.	Children's Sea Shore House.....	Atlantic Ocean.....	Atlantic.....	1,500 00
				<u>\$2,547 93</u>

## LICENSES.

Date.	To Whom Made.	Locality.	County.	Amount.
1898.				
Mar. 18.	Postal Telegraph Cable Co.....	Shark River.....	Monmouth.....	Nominal.
Mar. 31.	Postal Telegraph Cable Co.....	Manasquan River.....	Monmouth.....	\$25 00
Mar. 31.	Point Pleasant Electric Light and Power Co.....	Manasquan River.....	Monmouth .. } and Ocean..... }	50 00
May 2.	Perth Amboy Dry Dock Co.....	Arthur Kill.....	Middlesex.....	*50 00
June 1.	Ocean Telegraph Co. ....	Manasquan River.....	Monmouth.....	25 00
June 1.	Newark Sand Dredging Co.....	Passaic River.....	Essex, Bergen } and Passaic .. }	500 00
June 30.	Bergen County Traction Co.....	Overpeck Creek.....	Bergen.....	225 00
				<u>\$875 00</u>

\* Yearly.

## REPORT OF RIPARIAN COMMISSIONERS. 11

## SUMMARY.

Grants.....	\$13,409 30
Conversions of leases into grants in fee.....	21,500 75
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Rentals on old leases.....	47,159 57
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Total.....	<u>\$85,618 41</u>

The statement shows an increase in the number of grants and leases made during the year, while the amount realized is less than that of last year; the reason of this falling off in the amount realized is due to the fact that no grants or leases on the more valuable water front of the State, the Hudson river, New York bay, Kill von Kull, Arthur Kill and the Camden front of the Delaware river, have been made during the year.

This fact, no doubt, may be accounted for generally by the somewhat unsettled condition of the commercial interests of the country during the year, and somewhat by local causes.

In the case of the Hudson river front, the uncertainty as to the construction to be judicially placed on the wording of the act of the Legislature of February 19th, 1895, relative to the Palisades, no doubt operated to discourage shore-owners from acquiring the State rights to the lands under water. The wording of the act of February 19th, 1895, was deemed by the Riparian Commission to cover the entire natural formation from the water's edge to the top of the steep wall of rock, including the verdure-clad slope or talus, and there can be no doubt that they were in harmony with the spirit of the law as passed, when they declared forfeited the leases to Messrs. Brown & Fleming and John A. Treanor for violation of the above law, which was made a part of the condition upon which the leases were made and accepted. But it has been urged, and with apparent justice, that the law of 1895 amounts to a practical confiscation of the rights of the shore-owners affected, and has deprived the State of one of its most valuable assets. The attention of the Legislature was called to this condition by the shore-owners interested, and on May 18th, 1898, the following law was passed:

An Act to amend an act entitled "A further supplement to an act entitled 'An act to ascertain the rights of the state and of riparian owners in the lands lying under the waters of the bay of New York and elsewhere in the state,' approved April eleventh, one thousand eight hundred and sixty-four," which supplement was approved the nineteenth day of February, one thousand eight hundred and ninety-five.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. That the act above mentioned be and the same is hereby amended so as to read as follows:

WHEREAS, The Palisades situate in this state are liable to be irreparably injured or destroyed, unless measures be adopted for the preservation thereof; *and whereas*, by the insertion or imposition of proper and appropriate terms, conditions, restrictions and limitations in leases, grants and conveyances of the lands lying under water adjacent to or in front of the Palisades, the threatened injury or destruction thereof may, in a great degree, be averted.

1. That hereafter the riparian commissioners shall not make any lease, grant or conveyance of any lands lying under the waters of the Hudson river adjacent to or in front of the Palisades, or adjacent to or in front of the strip of land between the base of the Palisades and the lands under water, unless there be inserted in the lease, grant or conveyance such terms, conditions, restrictions and limitations as will, so far as possible, forever thereafter, preserve unbroken the uniformity and continuity of the Palisades, and also, so far as possible, prevent the lands leased, granted or conveyed from being in any way used or devoted to the injurious or destructive work or operations against the Palisades, or in connection with or for the encouragement, aid or promotion of injurious or destructive work of any kind against the Palisades; *provided, however*, that no terms, conditions, restrictions or limitations shall be inserted in any such lease, grant or conveyance which shall in any wise prevent or interfere with any work or operations, whether by blasting and removing rock, or otherwise, on any part of the land lying between the base of the vertical line of the Palisades and high-water mark on the Hudson river, for the purpose of preparing the ground for the construction of buildings, or for commercial purposes; *and provided further*, that this act shall not apply to or in any way affect the right of the state involved in any pending suit or suits, nor shall it, nor shall any of its provisions affect or impair any lease or leases, grant or grants already made by the riparian commissioners.

2. This act shall take effect immediately.

Approved May 18th, 1898.

This act has afforded some relief, and there is no doubt had the condition of the country remained normal, some important sales would have been made.

Another reason for the absence of sales on the more important water front of the State, is an impression among shore-owners that the charges for the State's lands are fixed and at very high rates. Effort has been made to inform all parties interested that the Board

has no fixed rates, but makes the same upon formal application, and uses every effort to fix such a rate as will be just to the State, and at the same time encourage the establishing of enterprises on our shores.

#### FREEHOLDERS' LICENSES.

The Honorable Robert C. Bacot, then Secretary and Engineer of the Riparian Commission, in his report to the Board in 1892, called attention to the attempt of some riparian owners to acquire title to the State's lands, in the following language:

"The attention of the Board is also called to the attempt of riparian owners in certain sections of the State to acquire title to large tracts of land under water by pretended compliance with the Wharf act prior to its repeal by the act of March 20th, 1891. That act provided that its provisions repealing the Wharf act should not apply to lands under water reclaimed or built upon under any Freeholders' license granted prior to July 1st, 1891, on condition that such reclamation should be completed before January 1st, 1892. When this act was passed, many riparian owners, principally in the counties of Hudson, Union, Essex and Middlesex, hastened to get licenses from the Freeholders, and pretended to make reclamation of the land under water covered by such licenses. Their improvements or reclamation consisted, in most instances, simply of placing piles or monuments at intervals along the land covered by their respective licenses. In many instances these piles were strung along from one hundred to three thousand feet. This is a mere perversion of the intent and spirit of the law, and the State should investigate the facts and prevent the acquisition of its title to valuable property by these pretended improvements."

Mr. Bacot's words were timely and prophetic, for attempts have been made since the repeal of the Wharf act of 1851 went into effect on January 1st, 1892, to build upon and reclaim some of these very lands attempted to be acquired under what Mr. Bacot justly termed a perversion of the spirit and intent of the law. The matter has been made the subject of a judicial decision, the case being one where a license was obtained from the Freeholders just prior to July 1st, 1891, and the reclamation made prior to January 1st, 1892, consisting of a row of piles connected by stringers or some such flimsy construction. The shore-owner subsequently disposed of part of the land, with the



same rights granted him by the Freeholders, and the purchaser proceeded to build a substantial and practical wharf. Upon notice that the Board deemed the same an encroachment on lands of the State, answer was made claiming the right to construct the wharf under the Freeholders' license. Issue was joined and the case brought to trial by the counsel of the Board, Mr. George L. Record, and on April 28th, 1897, the court rendered the following decision: "That the dock or wharf mentioned in said bill of information was erected upon the premises described therein, which belong to the State of New Jersey, without the authority of the said State, and that the said wharf is hereby decreed to be a purpresture upon the said premises belonging to the said State, and that the defendants cause the same to be removed forthwith.

"And it is further ordered, adjudged and decreed that the defendants pay to the informant the costs of this suit to be taxed, and that execution issue therefor according to the practice of this court."

The owner subsequently applied to the Riparian Commissioners for and received a grant from the State at the rate fixed by the Board.

#### EXAMINATION.

The Board has continued its examinations of the encroachments on the water front of the State during the year, and a number of cases are now in the hands of the counsel of the Board in course of prosecution.

#### GRANT TO THE UNITED STATES GOVERNMENT.

The attention of the Board is called to the grant made by the State to the United States Government, at Atlantic City, on August 17th, 1878.

This grant was made to the United States Government upon the representation that it was necessary to enter upon the lands of the State below high water, in order to erect barriers to protect the lighthouse from the encroachments of the sea. The grant extends from a point in the exterior line on the Atlantic ocean in line with the center of Connecticut avenue, northerly to a point in line with Adriatic avenue, a distance of about one mile and a quarter. The action of the ocean at this point has been to make upland, and at the present

time the high-water line is some seven hundred feet away from the lighthouse, and the land so made is built upon and forms one of the most attractive parts of Atlantic City. While the grant to the United States Government gives no right to individuals and does not preclude the State from making grants of the same lands to riparian owners, it still acts as a cloud on the title and prevents the State from realizing the full value of its lands. There no longer exists any necessity for the rights so granted to the Government; it would return a valuable asset if the Government could be induced to reconvey the same to the State.

#### RAILROAD CROSSINGS.

The attention of the Board has been called to the construction and condition of the railroad bridges crossing some of the navigable streams in the State. The residents of Belmar and Avon complained to the Board that a bridge constructed by a trolley company, under a license from the Riparian Commission, and a steam railroad bridge, built under a State charter, over Shark river, were so constructed and maintained as to interfere with navigation and impede the flow of the waters of said river. The Board held a meeting at Belmar on September 15th, and after hearing all parties interested, and representatives of the railroad companies expressing a desire and willingness to make such changes as were feasible, the matter was laid over.

The residents of Ridgefield township, in Bergen county, complained that the bridges of the railroads crossing Overpeck creek were serious obstacles to navigation, and so decreased the value to the owners of their water fronts that they objected to paying the State the rates fixed by the Commission. The Board held a meeting, at which all the parties interested were present, and upon the statements of representatives of the railroad companies that modifications and improvements would be made in the bridges, the matter was laid over.

#### ROUTINE WORK.

The routine business of the Commission, carried on during the year, consisted of the receipt of applications from shore-owners for riparian rights, and the hearing of parties interested in the same; the examination of the locality in which the lands applied for lie and the

determination of the rate to be charged. Upon the acceptance by the applicant of the rate fixed, the preparation of the maps and descriptions defining the metes and bounds of the lands under water to be conveyed, with the consideration to be paid or secured to be paid, and the examination of the title of the applicant attested by the certificate of the counsel of the Board, filed in the office of the Commission in each case; the preparation and execution of the instruments passed upon, with the delivery of the same to the applicants and the receipt and transmission to the State Treasurer of the consideration paid to the State; the recording at length in the books of the Commission all grants, leases and licenses made, and showing on the record maps of the office the location of the lands granted, with the dates of such grants, &c.

Surveys have been made of Beach thoroughfare, Atlantic City, Great Egg Harbor bay, Somers Point, Shrewsbury river, Monmouth Beach, Hackensack river and Overpeck creek, and monuments have been set on the Hudson river, marking the points from which the exterior lines are located.

Inquiries have been made relative to riparian rights on the Hudson river, application has been made for rights on Arthur Kill, and the indications are that with the settled prosperity of the country now in view the coming year will show a greater activity in the sales of the more valuable lands of the State.

Respectfully submitted,

JOHN C. PAYNE,

Secretary and Engineer.

October 31st, 1898.

## FINANCIAL STATEMENT

Of Amounts Received and Paid by the Riparian Commissioners for Salaries of Employees and Office Expenses of the Commission for the Year Ending October 31st, 1898.

		Dr.	
1897.			
Nov. 1.	To balance in First National Bank.....		\$40 91
Dec. 7.	" amount received from State Treasurer.....		408 14
1898.			
Jan. 8.	" " " " " .....		398 17
Feb. 2.	" " " " " .....		409 67
March 3.	" " " " " .....		398 72
April 7.	" " " " " .....		414 12
May 11.	" " " " " .....		424 22
June 2.	" " " " " .....		416 23
July 15.	" " " " " .....		504 95
Aug. 10.	" " " " " .....		456 03
Sept. 15.	" " " " " .....		458 66
Oct. 6.	" " " " " .....		456 50
Nov. 2.	" " " " " .....		1,077 90
			<u>\$5,864 22</u>

		Cr.	
1898.			
Oct. 31.	To amount paid for salary of Secretary and Engineer.....	\$3,091 67	
	" " " " General Counsel.....	1,500 00	

### TO OFFICE AND INCIDENTAL EXPENSES.

To rent of offices .....	400 00
" surveys, maps, printing, telephone rent, stationery, &c .....	831 64
" balance in First National Bank, Jersey City.....	40 91
	<u>\$5,864 22</u>

JOHN C. PAYNE,  
Secretary.  
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## APPENDIX.

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Directions for Applicants to the Riparian Commission of the State of New Jersey for the Lands Under Water.

Applicants for lands of the State under tide-water will observe the following directions :

*First.* Furnish a description by metes and bounds of the lands owned by the applicant in front of which the lands applied for lie, accompanied by a survey and map of the same made by a competent surveyor, showing the exact frontage of said land on the shore at mean high-water mark, and the names of the owners of the adjoining lands.

*Second.* State whether the lands under water applied for are now or are hereafter to be used for commercial or other purposes, and if so, what ; whether they have been improved in whole or in part, or are authorized to be improved under any grant or license protected by the provisions of the supplement of the Riparian act of March 31st, 1869 ; also, if any oyster land, fishery or privilege therefor is embraced within the limits of the land under water applied for.

*Third.* State whether a grant in fee-simple or a lease in perpetuity, with privilege to convert the same into a fee, is desired.

[NOTE.—For a grant in fee-simple, the principal sum is required to be paid. For a lease, a rental at the rate of seven per cent. per annum on the principal sum is payable semi-annually in advance to the State Treasurer.]

*Fourth.* An abstract of the title to the land owned by the applicant, prepared by a practitioner of the law of this State or by the Clerk of the county in which the land is situated, must be furnished with the application before the same will be considered by the Commissioners.

Blank forms for applications and all further information required will be furnished by John C. Payne, Secretary of the Commission. Office, Jersey City, N. J.