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# APPEAL TO THE LEGISLATURE,

ASKING THEM TO

*INQUIRE INTO THE RIGHTS OF THE STATE*

IN

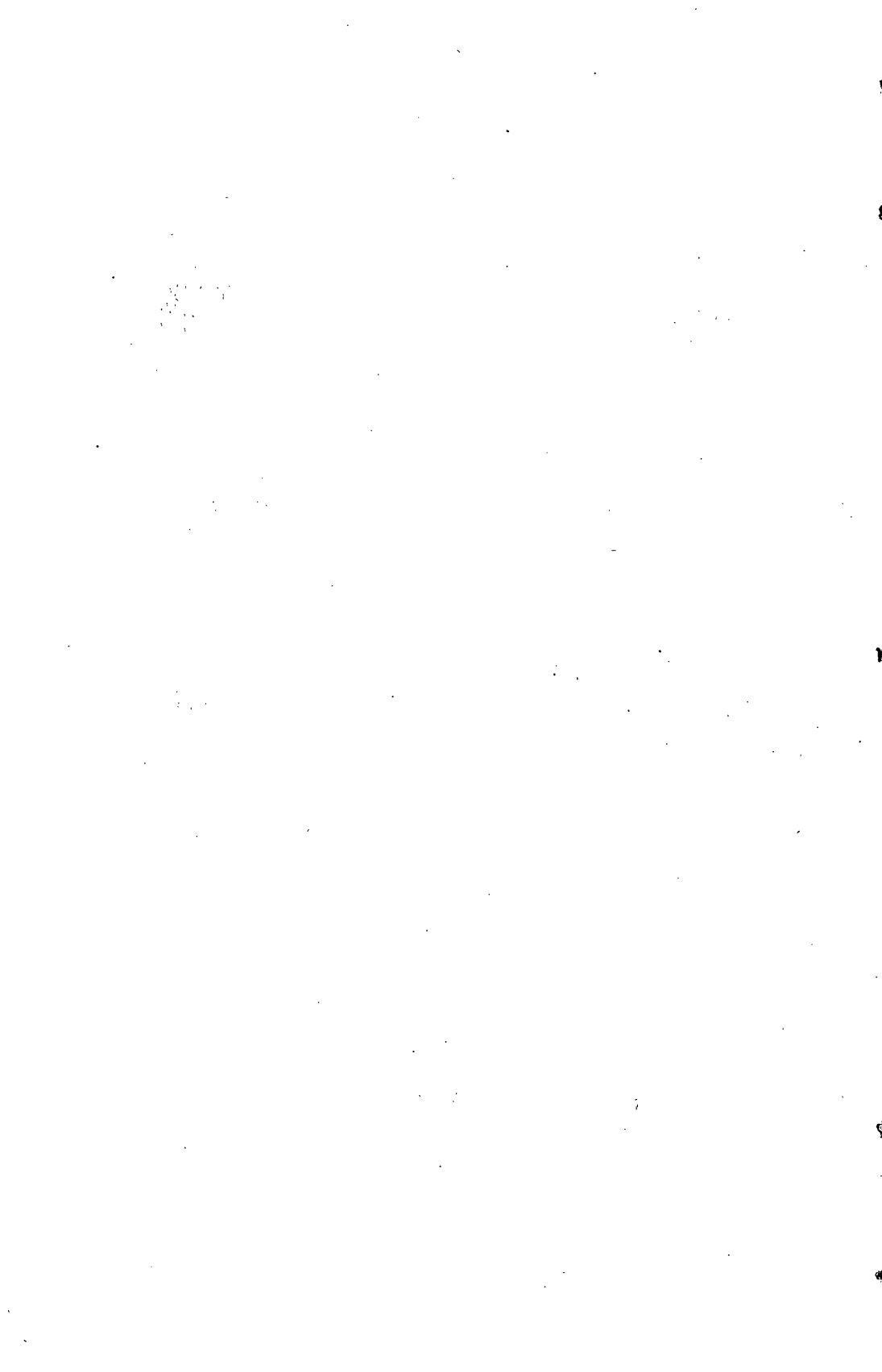
## LANDS UNDER WATER

### IN NEW YORK BAY, ETC.

NEW YORK:

JOHN F. TROW, PRINTER, 50 GREENE STREET.

1864.





IN submitting the following (bills) to the Citizens and Tax payers of this State for their careful consideration two very important questions arise.

First. Are the finances of the State in a condition to justify a grant of land of large value to a corporation as proposed in Senate Bill No. 29 ?

Secondly. Are not the present and prospective finances of the State such as to call upon the Legislature carefully to look after the property of the State, and to see that its application and conversion to use shall have a direct reference to the debt now creating, as proposed in Senate Bill No. 154 ?

With this introduction, the two Bills No. 29 and No. 154, now before the Senate, are hereto appended, together with the very able and lucid report of the Commissioners, presented to the Legislature in 1849, setting forth the rights of the State to the lands in question lying under water in the Bay of New York, and such other information as may be deemed important at this time.

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SENATE—NO. 29

STATE OF NEW JERSEY.

*An Act to incorporate the American Dock and Improvement Company.*

Whereas, It is represented that John S. Gilbert, Preston H. Hodges, James Hoy, Henry L. Gilbert and Moses B. Bramhall, and others their associates, now own certain tracts of land, and land covered with water, situate in the townships of Bergen and Greenville, in the county of Hudson, which they intend to fill in and reclaim from the water, and to divide into suitable building and other lots, and to sell and dispose of the same for the benefit of the association, with the object of erecting a town, with docks, wharves, and bulkheads, so as to afford facilities to secure to this State a portion of the commerce and shipping of the city of New York; and whereas, it is necessary, for the success of their undertaking, that they should be able to convey the said premises, from time to time, to such persons as may be desirous to purchase, notwithstanding death or other cause affecting the individuals owning or who may own the said land, and in order to give greater efficiency and concentration to their efforts for the improvement of the said land, now, therefore,

1. *Be it enacted by the Senate and General Assembly of the State of New Jersey*, That John S. Gilbert, Preston H. Hodges, James Hoy, Henry L. Gilbert and Moses B. Bramhall, and such other persons as they may associate with them, and their successors, shall be and they are hereby incorporated and made a body politic and corporate, in fact and in law, by the name of "The American Dock and Improvement Company," and that the capital stock of the said company shall be two million dollars, divided into shares of one hundred dollars each, which shall be subscribed and paid in at such times, upon such notice, and in such manner and instalments, as the directors of said company, by their by-laws, or otherwise, may direct; that such payment shall be

made either in money or in land situate in said townships of Bergen and Greenville, in the county of Hudson; and in case of payment in land, the directors may issue in payment therefor the stock of said company, upon such terms as may be deemed best for its interests; and that in case of the failure of any stockholder to pay the instalments on his or her stock, at the place and within thirty days of the time appointed for the payment thereof, such stockholder shall incur a forfeiture of his or her share or shares, and of all previous payments thereon, for the use of the company.

2. *And be it enacted*, That the capital stock of the said company shall be deemed personal property, and the shares shall be transferable in such manner as the board of directors, by their by-laws, may direct; and every share shall entitle the holder to one vote, either in person or by proxy.

3. *And be it enacted*, That the affairs of the company shall, after the organization of the company, be managed by five directors, to be chosen by the stockholders of the said company annually, at such time and in such manner as the by-laws of the company may direct, who shall serve for one year, and until others are chosen in their stead, notice of which election shall be previously given for two weeks, in a newspaper published in the county of Hudson; the said directors shall, from time to time, elect a president from their number, and may also appoint such other officers as may be convenient or necessary, who shall receive such compensation as the by-laws may direct.

4. *And be it enacted*, That John S. Gilbert, Preston H. Hodges, James Hoy, Henry L. Gilbert and Moses B. Bramhall shall be the first directors of the company, a majority of whom shall, as soon as convenient after the passage of this act, assemble and organize such company, and shall continue in office until others as hereinbefore directed shall be chosen in their stead.

5. *And be it enacted*, That as soon as the said company shall be organized, it shall be authorized to receive conveyances for the lands now owned as aforesaid between the south line of the lands of "The Central Railroad Company of New

Jersey," where it intersects the New York bay, and Kavan Point, and to hold and execute all instruments and conveyances necessary for the purchasing, leasing or selling of such property; and the said company are hereby authorized to purchase and hold any lands adjoining or near the above mentioned tracts, which they may deem necessary for improving and enlarging said property, and to pay for all lands with the shares of its capital stock, at such price as the company may deem best for its interests; *provided*, they shall not hold at any time over two hundred acres above high water mark, in addition to the tracts mentioned in this section.

6. *And be it enacted*, That the said company shall be and hereby are authorized to improve all and every portion of the said lands under water held or purchased by them as aforesaid, by erecting buildings and laying out said lands into lots, streets, squares, docks, lanes, alleys, or other divisions, and by levelling, grading, raising or tunnelling the said land, streets, lanes, and alleys; and they shall have liberty to fill up, raise, occupy, possess and enjoy as their own property, all lands covered with water which they may hold or purchase, or which may lie in front of any lands which they may hold or purchase, and may build, enlarge, or improve, or sell and convey to others to improve, all and any land or lands under water, wharf or wharves, bulkhead or bulkheads, piers, slips, and other structures which they may deem necessary for commercial, shipping or other purposes; *provided*, that in carrying out the provisions of this act they shall not injure the navigation of the Hudson River or interfere with the legal rights of others, and that the southerly line of the said improvement into the bay shall be on a line commencing on the southerly side of Kavan Point, at the boundary line of lands of late belonging to Stephen B. Vreeland, and at the point where said boundary line strikes the shore of the New York bay, and from thence running forty-six degrees and thirty-nine minutes east of the channel of the Hudson River; *and provided always*, that the said company shall pay for the oysters planted, if any there be, upon any land under water which they may improve, to the person or per-

sons by whom they were planted, or shall give them at least one year's notice to remove the same; and in case the value of such oysters cannot be agreed upon, then, in such case, either party upon twenty days' notice to the other, may apply to the Court of Common Pleas of the county of Hudson, whose duty it shall be to appoint three disinterested freeholders of said county to appraise the same, whose report, or the report of any two of them, made in writing to the said court, shall be final and conclusive; and in determining said value the said appraisers shall be governed by the like rules as arbitrators; *and provided further*, that nothing contained in this act shall be so construed as to give the said company any power to make any improvement whatever upon the tract of land under water in New York bay, heretofore granted to Aaron Ogden, without the consent in writing of the said Aaron Ogden, or his legal representatives.

7. *And be it enacted*, That the said company shall have the right to demand and recover, by action at law, all wharfage, dockage and cramage which may be levied upon any wharf, dock, pier, slip or bulkhead erected by them upon their said land by virtue of this act.

8. *And be it enacted*, That unless the aforesaid improvement shall be commenced within one year from the passage of this act, then this act shall be null and void.

9. *And be it enacted*, That this act shall continue in force twenty-five years, and that the legislature may alter, modify or repeal this act whenever, in their opinion, the public good may so require.

10. *And be it enacted*, That a majority of the board of directors shall (after the expiration of the first year of the organization of this company,) be residents of this State, and that there shall be maintained at Jersey City a principal office for the conduct of the business of said company.

11. *And be it enacted*, That this act shall take effect immediately.

## SENATE BILL NO. 154.

*Whereas* it is represented to the Legislature of the State that grants of rights to occupy land under the water of the Bay of New York and the Hudson River have been made, and are liable to be made without sufficient information of the rights of the State, and of the riparian owners in the same, therefore with the view of obtaining the proper information to enable the Legislature to protect the rights of the State,

*Be it enacted by the Senate and General Assembly of the State of New Jersey.*

FIRST. That a board of Commissioners be appointed by the Governor, to consist of six citizens of this State, who shall have power, and whose duty it shall be—

1. To cause the necessary surveys and examinations to be made of the lands lying under the waters of the Bay of New York, and of the Hudson River, and of the lands adjacent thereto, the right to reclaim which have not been granted by the State, by competent surveyors, and to obtain all needful information from other sources, in order to ascertain the present rights of the State in the same, and the value of said rights; and to fix and establish an exterior line in the said bay and river, beyond which no pier, wharf, bulkhead, erection or permanent obstruction of any kind shall be permitted to be made, and to report to the next Legislature, on or before the first day of February next, the result of the information thus obtained, and the value of the said rights, together with the evidence upon which the same is founded, and—

2. That they shall recommend to the Legislature such plans and provisions, for the improvement, use, renting or leasing of the said lands under water, as they shall deem necessary for, and most conducive to the interest of the State, and to have prepared, and submit with their report,

maps of said land exhibiting the exterior line, fixed and established by them in said bay and river, and the lines of the existing piers, wharves and bulkheads, and also showing any grants of lands under the waters of said bay and river, which have not been occupied, and also the original shore line as far as the same can be ascertained, accompanied with such field notes, measurements and elucidations, as they shall deem necessary for a full exposition and understanding on the subject.

SECOND. *And be it enacted*, That until such report is made, no further grant, lease or sale of any of said lands shall be made, and the said Commissioners may, by their order in writing, restrain and stay all proceedings, erections and obstructions, until the further direction of the Legislature ; and if any permanent erection in, or obstruction of the said waters within the said exterior line, to be fixed or established by them, be commenced or continued after such order in writing, the said Commissioners may cause the said order to be enforced, and disobedience thereof to be punished by the Court of Chancery, in the same manner, and to the same extent, as in cases of injunction issued out of said Court ; and any permanent erection or obstruction made contrary to any such written order, may be removed and abated by the said Commissioners. Provided, however, that the said Commissioners shall not interfere with any rights already granted.

THIRD. *And be it enacted*, That the said Commissioners shall take and file in the office of the Secretary of State, an oath, well, truly and faithfully to perform the duties of their appointment before entering upon said duties. And they shall not be, or become interested directly, or indirectly, in any water rights, or rights to occupy lands under water in the said bay or river, nor in any real estate that can in any way be benefited or affected by the establishment of such exterior lines, or by any measures that they may recommend ; and upon proof being made to the Governor of any one of said Commissioners being so interested, and upon a hearing of a party so charged, he may be removed from office by the Governor.

FOURTH. *And be it enacted*, That any vacancies in the Board of Commissioners, caused by removal, resignation, refusal to serve or otherwise, shall be, by appointment by the Governor, of a citizen of this State not interested as aforesaid.

FIFTH. *And be it enacted*, That the said Commissioners may appoint surveyors, agents, and others necessary for the discharge of these duties, and they and their agents may enter upon any land for the purpose of surveying or obtaining any information on the subject of their appointment.

SIXTH. *And be it enacted*, That each Commissioner shall receive five dollars for every day actually employed by him in the duties of the said appointment, and his actual travelling expenses when absent from his residence.

SEVENTH. *And be it enacted*, That this act shall take effect immediately.

EXTRACTS

FROM THE

REPORT OF THE COMMISSIONERS

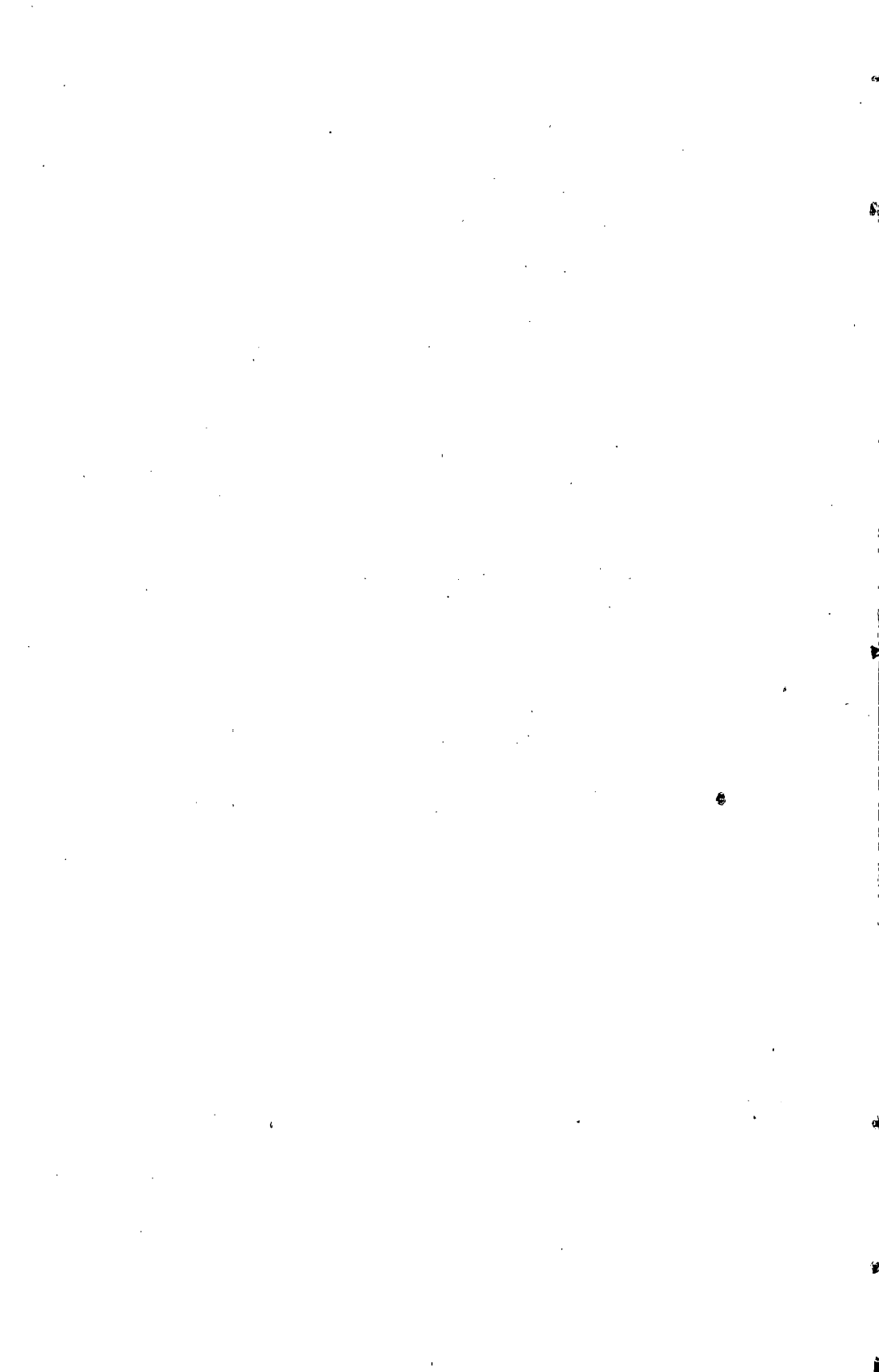
ON THE

*EXTENT AND VALUE OF LANDS UNDER WATER*

IN THE

COUNTY OF HUDSON,

Made January 24th, 1849.



*To the Senate and General Assembly of the State of  
New Jersey :*

THE Commissioners appointed by a concurrent resolution of the Legislature adopted the 23d day of February, A.D. 1848, to inquire into, and report to the then next session of the Legislature, the extent and value of the lands owned by the State in the Bay of New York, Harsimus Bay, and the Hudson River, within the county of Hudson, and such other matters in relation to the rights of the State, and the citizens of the State therein, as they shall deem expedient, with great deference and respect submit to the Legislature the following Report :

The Commissioners met at Jersey City on Tuesday, the 6th day of June last, with the design of making the inquiries directed by the resolution, when an application was made by parties interested, for an adjournment of such a contemplated session, and for the causes assigned, postponement was accordingly made to Monday, the 17th day of July, then next, at which time and at the same place, the Commissioners again met and heard all parties interested in the subject matter of reference, who desired to be heard either by themselves or counsel, and held subsequent sessions for examination and conference.

In the course of investigation, it was deemed necessary to have a map prepared to exhibit the water-line of the county of Hudson, with the several bays or coves, especially of the eastern shore, indicating the sites of the principal improvements made along that line, and of grants heretofore made by the Legislature, the shoals or flats with the depth of water coastwise to the channel, and the adjacent upland

localities. Such map was made at the instance of the Commissioners by Andrew Clerk, Esq., of Jersey City, civil engineer, in a manner entirely satisfactory, and will accompany this report and will doubtless be deemed worthy of careful preservation for present and future reference. Written questions were also submitted to the corporation of Jersey City, and to Henry Southmayd, Esq., acting for himself and the Jersey associates, and full and explicit replies obtained, though not in either case at so early a date as was desirable. Those questions and answers are appended to this report; and the answers are referred to as affording definite local information of value and interest, though differing somewhat in details, and yet more in results and opinions.

\* \* \* \* \*

The Commissioners desire to make grateful acknowledgment for these and other facilities, and, indeed, for a kind and courteous reception on the part of all with whom they came in contact in the prosecution of their inquiries.

This review, in connexion with recent judicial decisions, discloses, it is supposed, the competent sources of any grant affecting lands submerged by navigable or tide waters from the margin to the channel.

I. That such grant is governmental, and involves the exercise of a power partaking of the nature and character of sovereignty :

II. That legislative action has ever pervaded the entire subject with a supremacy complete, universal, and in all proper instances, of which it judges, exclusive :

III. The right of the riparian owner to *wharf out* to low water mark (alleged to rest in usage or custom), may possibly exist in legal contemplation, yet has sought, in numberless instances, legislative support, and cannot safely stand without it, nor be assured it does not infringe the common right of navigation or fishery :

IV. That neither the right of ferry, though appurtenant, nor the right to draw seine on his own land, can withstand the energy of an adverse legislative act, which can create a several fishery, or obstruct a navigable river; and though forty years since the Supreme Court of this State (Penn. R.

377) declared that the right to the soil of the bed of a river would be brought in question, it is now settled :

V. That the property and title of such lands are in the State :

VI. That the Legislature may dispose of and regulate the same from high water mark for the advancement of commerce, or the improvement of fisheries, by direct interposition, or by agencies ; may erect or construct ports, basins, docks, wharves, on the sea-coast or navigable rivers, reclaim land from or beyond the shore, and build dams, locks, bridges &c. :

VII. That since 1702, the Board or Council of Proprietors could not convey those lands, they having no right or title in navigable rivers, nor in the soil under them :

VIII. That in the exercise of the aforesaid powers, the Legislature have deemed it just and reasonable not to infringe upon the customary use of the shore by the riparian owner, or access to the channel, except on terms and for paramount considerations :

IX. That riparian use becomes absolute and indefeasible only by the exercise, actual or presumed, of the State sovereignty in its behalf :

X. That the early legislation of the State is replete with instances of recognitions and enforcements of the common rights of navigation and fishery, extending to creeks navigable by shallops, or in any way used for the transportation of produce :

XI. That the right of ferry was not considered inseparably annexed or appurtenant to land ; was frequently severed and made personal, and promoted by exclusive privileges, equivalent to a prohibition of the use and enjoyment of such right by the riparian owner.

Such was the title of the State in and over the vast area of land covered by water referred to in the resolution, and such is that title, so far only excepted as the same has been impaired by sufficient grant made by competent authority ; and it seems worthy of observation that under the unlimited claims of the lords proprietors to soil, water and dominion,

no grant has been shown to have been made by them, or under their authority, which by decisive metes and bounds will carry the grantee at furthest below low-water mark.

\* \* \* \* \*

The foregoing synopsis indicates the grants, by act of the Legislature or otherwise, which affect the title of the State; and conceding full effect and operation to them all, it is manifest that the interests of the State remain unaffected to a very great extent, involve results of great moment, merit a most thorough and intelligent consideration, and the recognition and establishment of a wise, provident and beneficent policy.

The general extent of the water line has been stated.

The lands submerged, within the scope of the resolution, are estimated at eight thousand, three hundred and four acres, lying west of the New York boundary line, itself somewhat conjectural, and likely to become more so; as will presently be adverted to.

Of the whole area, three thousand, five hundred and thirty-four acres are covered or flowed by navigable waters; and of the residue, York Bay, or Communipaw Cove, between Constable's Point and Jersey City, contains of flats or shoals, four thousand, four hundred and six acres, and by another estimate extends in length four miles and eight-tenths, with an average width of three-tenths of a mile.

The lands in this locality have been used chiefly for fisheries, and, in the opinion of some persons, are susceptible of other and more valuable use. To secure this result, large expenditure of money must, doubtless, be incurred. Whether such probable improvement should be impeded by further particular grant, until the policy of the State shall have been matured and settled, is suggested.

Harsimus Cove, extending from Jersey City to Hoboken, one and one-tenth of a mile, with an average breadth of one-half a mile, contains, by one estimate, two hundred and sixty-four acres; and by another, two hundred and thirteen acres. Here are the sites of some important grants before stated. As an indication of the value of the submerged lands in this

vicinity, the written communication of J. D. Miller, Esq., a riparian owner, is referred to, and hereto appended.

The lands reclaimed have been used as sites for wharves, docks, &c., and in and about Jersey City for these and more general building sites, extensions of streets, &c.

The projected improvements there are intended to afford larger accommodations for commercial uses, basins, dry docks, store-houses &c.

The prospective value and use of the lands are indicated by their position, most direct and facile access from the ocean, in close proximity with the great business mart of the country, with a commerce already obliged to seek accommodation in more remote and less favorable localities, and in course of rapid advancement.

With reference to the policy alluded to, shall the State retain henceforth its right of property, with its jurisdiction and dominion over these lands, making, from time to time, such systematic and provident regulation with reference to them as the exigencies of commerce and other interests may require, as is done in Massachusetts and some other States? Or,

*Second.* Shall such disposition be made, upon survey and apportionment, that the title of the State, by lease or sale, be made to yield revenue to the State or county, or both in equitable proportions, giving in this mode the right of pre-emption to the riparian owner? Or,

*Third.* Shall the title be transferred, and the lands ceded to the local authorities, county or municipal, and under their supervision and grant, within limits, applied to local improvements irrespective of State or county revenue? Or,

*Fourth.* Shall such grants be made by a Board of Commissioners, to a certain and defined extent, giving special preference to the riparian owner, and upon notice and terms?

These and similar topics of remark, are naturally suggested, but the discussion thereof to any useful extent might be supposed to transcend the design of the reference. The subject will, doubtless, receive the grave consideration of the Legislature.

By the agreement adopted 26th February, 1834, the boun-

dary line between the States of New York and New Jersey, "from a point in the middle of Hudson River, opposite the point on the west shore thereof, in the forty-first degree of north latitude, as heretofore ascertained and marked, to the main sea, *shall be the middle of said river*, of the bay of New York, of the waters between Staten Island and New Jersey, and of the Raritan Bay."

Since the date of this agreement, very extensive alterations of the New York shore, of the bay and river have been made, wharves in and about the city have been extended several hundred feet toward the channel, and yet larger extensions are in serious agitation. It is respectfully submitted that measures should be adopted to ascertain and locate this boundary line by survey, distances, and reference to fixed monuments, before it is involved in incertitude and possible dispute, to the detriment of the State, and the rights of her citizens.

All of which is respectfully submitted.

W. H. LEUPP,  
 MARTIN J. RYERSON, } *Commissioners.*  
 GEO. F. FORT.

*Dated Trenton, January 24, 1849.*

## DOCUMENTS

REFERRED TO IN THE FOREGOING REPORT.

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### INTERROGATORIES

*Submitted by the Commissioners to the Corporation of Jersey City.*

*First.* What is the extent of the whole water line of Hudson County; and its beginning and ending points; and the extent of lands between that line and the New York line?

*Second.* What bays, coves, and inlets are there along the line, and the extent, size or area of each?

*Third.* Where are the shoals or flats, and what the extent and size of these?

*Fourth.* To what purposes or uses are or may the lands between high water line and the channel or New York line, be applied?

*Fifth.* To what uses are such lands applied which are situate between the northeast point of the county and Jersey City?

*Sixth.* To what uses are such lands applied which lie south of Jersey City; and to what further uses may they be applied, if reclaimed, under the authority of the State, now and prospectively?

*Seventh.* Are there submerged lands of the county on its south and west boundaries, or south and west of Bergen Neck? how used? to what further and prospective use may they be applied?

*Eighth.* How much of the lands formerly covered by water has been reclaimed within the limits of Jersey City? How reclaimed, and to what uses put?

*Ninth.* How much of the water front is owned by individuals, and how much retained by the Associates.

*Tenth.* What was the extent of the projected improvement north of Jersey City?

*Eleventh.* Are there any grants, by patent or otherwise, extending to or below low water; and what grants have been made by the State, besides those to the Associates, Hoboken Land Improvement Company, Bergen Point Company, and Aaron Ogden?

*Twelfth.* What is the distance from the beginning point of the county on the Hudson, to Jersey City, to Constable's Point, to Bergen Point, and the mouth of the Passaic, coast-wise, respectively?

*Thirteenth.* Within those limits, respectively, what is the present and prospective value of such lands, and to what uses may they now or hereafter be applied?

## A N S W E R

### Of the Corporation of Jersey City, to the Interrogatories of the Commissioners.

THE Mayor and Common Council of Jersey City submit the following answers to the Interrogatories from Wm. H. Leupp, chairman of the legislative committee to ascertain and report on the extent and value of lands flowed by navigable waters in Hudson County, New Jersey. The answers are consecutive, and of the precise number and order of interrogatories :

*First.* The east and south tide-water line of Hudson County extends fourteen miles and four-tenths, beginning at Bull's Ferry, the northeast corner of the county, and running thence southerly, coastwise, six miles and three-tenths, to Jersey City ; thence southwestwardly five miles and three-tenths to Constable's Point ; thence westerly two miles and eight-tenths, to Bergen Point. The western tide-water line from Bergen Point to railroad bridge at Newark, following the channel in New York bay and the Passaic River, is a fraction over nine miles.

The whole eastern front of Hudson County, from Bull's Ferry to Constable's Point, a distance of eleven miles and sixty hundredths, has submerged lands, averaging one quarter of a mile in breadth, that may be advantageously reclaimed from the tides.

*Second.* Harsimus Cove extends from Hoboken to Jersey City, a distance of one mile and one-tenth, and has an

average breadth of half a mile. York Bay extends from Jersey City to Constable's Point, a distance of four miles and eight-tenths, and in breadth reaches the New York State line. Newark Bay, from Bergen Point to the confluence of the Hackensack and Passaic rivers, is five miles and a half long, and has an average breadth of one mile and one-fourth.

*Third.* The shoal or flat from Haring's Meadow, south, to Hoboken, is one mile and three-fourths long, and one eighth of a mile broad. Harsimus Cove, described in answer second, is entirely shoal. York Bay is shoal from Jersey City to Constable's Point, comprising an average width of three-tenths of a mile from the shore. Newark Bay, except a channel running the whole length, is shoal, and varies from one to six feet at low water.

*Fourth.* Some of the lands below high water line, on the east side of Hudson County, are occupied for piers and wharves. A portion of said lands have been reclaimed and applied to streets, building lots, &c. Nearly all the flats on the east side of the county may be advantageously applied to the same and kindred purposes.

*Fifth.* The lands between the north-east point of the county and Jersey City, as far as they have been reclaimed from the tides, have all been applied to the purposes and uses named in answer fourth.

*Sixth.* The lands flowed by the tides, south of Jersey City, are all natural oyster beds, and furnish subsistence to a large number of fishermen. If reclaimed, these lands would be valuable as building lots.

*Seventh.* The lands flowed by the tides on the south and west of Hudson County, include the Kill-Van-Kull and Newark Bay, and are of very great area; they are valuable for the oyster and other fisheries, that furnish employment and sustenance to a large number of men. Those lands could not, for the present, nor for many years hence, be profitably used for any other purpose than the fisheries.

*Eighth.* About ten acres of land, formerly covered by water, have been reclaimed in Jersey City, by filling in with earth to raise it above high water; it is used for streets, and

building lots, and is worth, at least, two hundred thousand dollars. The entire profits of the speculation have been received by the "Associates of the Jersey Company," who, as pretended owners, either reclaimed the land, and then sold it in building lots to others; or, as in most cases, sold the submerged land in its natural state, to be filled up by the purchaser. A small portion of the reclaimed land is held by lessees of the Associates for a coal depot and landing place for the Cunard steamers.

*Ninth.* All the water front in Jersey City is owned by individuals, except about eight hundred feet in length, that is occupied and claimed by the New Jersey Railroad and Transportation Company, the Paterson Railroad Company, and the Morris Canal and Banking Company. About four hundred and fifty feet of this front are occupied by lessees of the "Associates," by permission of the Mayor and Common Council of Jersey City, who allowed it to be reclaimed and used for a depot for the Cunard steamers, but for no other purpose. By "water front," in interrogatory ninth, is understood the lands that front on the navigable water. The "Associates" do not own any of the water front; they have long since sold all the original land that had a front on the water, and, with the exception of about half an acre, they have sold all the land that was ever contained in Paulus Hook when purchased from Van Vorst—the only land they were permitted to acquire, even by purchase.

*Tenth.* The projected "improvement," so called, is believed to embrace at least twelve acres.

*Eleventh.* The only patent ever granted for land that extends into the navigable waters of Hudson County, is the patent of Philip Carteret and his council, to the inhabitants and freeholders of the township of Bergen (now Hudson County), in the year 1668; which patent was subsequently confirmed by Queen Anne, in the patent from Robert Hunter, Captain-General, and Governor-in-chief over New York and New Jersey. The township patent included all the unpatented lands, together with all the rivers, bays, islands, creeks, and waste lands. The only one grant made by the

State of New Jersey, not named in interrogatory eleventh, was Budd, in the session of 1834-'5.

The word "grants" in the eleventh interrogatory, is understood to mean the several acts releasing or confirming *pretended* titles to Ogden, Budd and others; though it may be questionable whether all of them are legal grants. The act releasing to Ogden the right of the State to certain lands under water, was *repealed* in one branch of the Legislature during the session in which the act was passed.

The repeal was based on affidavits of members of the Legislature, stating that they had been deceived in the matter. The same, or similar causes may render all those acts invalid.

Copies of the affidavits, and other proceedings had to repeal the Ogden grant, are herewith transmitted, marked A.

*Twelfth.* The distances from the beginning point of the county on the Hudson River, to Jersey City, to Constable's Point, and to Bergen Point, are given in answer to first interrogatory. From Bergen Point to the mouth of the Passaic, at its confluence with the Hackensack River, is five miles and one-tenth by the course of the channel, and five miles and three-tenths by way of the shore, or coastwise.

*Thirteenth.* The present and prospective value of all the submerged lands on the westerly and southerly portion of Hudson County, comprising Kill-Van-Kull, Newark Bay, and also all that part of York Bay, between Constable's Point and Communipaw, near Jersey City, is equivalent to the produce of their shell and other fisheries, which certainly sustain several hundred citizens of this State. Within the limits of Jersey City, Harsimus, and Hoboken, these lands are of great value for reclaiming as building lots, streets, docks, piers, &c.—purposes to which they have been very extensively applied. The lands already reclaimed in Jersey City by the "Associates" and their assignees, are now worth at least *two hundred thousand dollars*, which is double the sum paid by the "Associates" for all Paulus Hook. The moneys received for the reclaimed lands, as well as the money received for the land above high water, which has all been

sold, except about half an acre, still retained by them, has accrued to the benefit of the "Associates."

The remaining unreclaimed lands within the limits of Jersey City, Harsimus and Hoboken, are very valuable as sites for docks and piers for commercial use.

## PROPOSITION OF J. D. MILLER, ESQ.

*To the Honorable the Committee of the Legislature, appointed to inquire into the value and extent of the State Lands under water in the county of Hudson.*

GENTLEMEN :

The undersigned is the owner, in right of his wife, of about two hundred feet of shore in the township of Van Vorst, in the county of Hudson, extending along and fronting on Harsimus Bay, or Hudson River.

It is an ancient shore, against which the tides always have and still do flow. It has been held and enjoyed by the former owners as a shore, for more than two hundred years. It is not a part of the circular shore of Harsimus Bay, but lies a considerable distance above it; is a straight shore, and every part of it has always commanded an unobstructed and direct access to the navigable waters of the Hudson River. The land under water in front of this shore has been used and enjoyed from time to time, by the former owners, to some extent, for an oyster fishery.

The undersigned is impressed with the belief, therefore, and insists that he is entitled to the right of enjoying and improving all the lands under water in front of said shore, subject only to the adjudicated and acknowledged right of the State of New Jersey therein. If the State is willing to grant its right and to fix a price thereon, the undersigned desires to claim the privilege of pre-emption, which he trusts will be readily extended to shore owners.

And as this Committee are instructed to inquire into the value of these lands under water, I ought, perhaps, further

to say, that in order to prevent all unlawful encroachments and intrusions by third persons in front of my shore, and to secure a quiet title and possession, for the purpose of improving the same, I am willing to give, and hereby offer to give to the State, if the State conclude to sell to shore owners, the sum of one thousand dollars for the State's right to the lands under water in front of said shore, as far as to the line of navigation.

Very respectfully yours, &c.,

J. D. MILLER.

JERSEY CITY, *July 21st*, 1848.

TRENTON, N. J., *March 4, 1864.*

Professor A. D. BACHE,  
*Superintendent Coast Survey.*

DEAR SIR :—The enclosed bill (Senate Bill No. 29) has been introduced into the Legislature of this State, asking for large grants of land in the Bay of New York, opposite Bergen Point, and now covered with water.

You will confer a great favor upon us by perusing the bill, and, referring to the harbor chart prepared under your direction, furnishing us with your opinion as to the benefit or injury to navigation which would result from filling it in as proposed by the bill.

We are, very respectfully,  
your obedient servants,

(Signed)

E. NYE.

F. S. LATHROP.

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New York, *March 6, 1864.*

GENTLEMEN :—I have the honor to state that I have examined the bill enclosed to me in your letter of March 4th, 1864, and the harbor chart prepared under my direction, and in conformity with your request give my opinion, as to the probable benefit or injury to navigation which would result from the filling of New York Bay opposite Bergen Point, as contemplated in the bill referred to, that it cannot fail to be a most dangerous encroachment, injuring the navigation of the bay and of the adjacent waters.

Very respectfully yours,

A. D. BACHE,

*Superintendent U. S. Coast Survey.*

E. NYE, ESQ.

F. S. LATHROP, ESQ.

And in order to show the interest that is being awakened in reference to this important matter, we copy the editorial leader of the *Newark Daily Advertiser*, one of the leading papers in the State, in its issue of Saturday evening, March 5th, 1864.

#### RIPARIAN RIGHTS OF THE STATE.

AN important subject of legislation which has occupied the public mind at various times for many years past, relates to the rights of the State in lands covered by water in the bay of New York, which comprise large tracts and have an enormous value. Every year applications are made to the Legislature for grants to reclaim and occupy portions of these lands by private parties, some of whom are mostly speculators, a few being owners of the adjacent shore. With the view of obtaining the proper information on the subject, and to protect the rights of the State, a bill has recently been introduced in the Senate, enacting that a Board of Commissioners, consisting of six citizens of the State, be nominated by the Governor, and confirmed by the Senate, whose duty it shall be to cause the necessary surveys to be made, and obtain all possible information as to the rights of the State and their value, and also to fix an exterior line in the bay and river, beyond which no pier or permanent obstruction shall be permitted. The Commissioners are required to report to the next Legislature the results of their labors, and the value of the State's rights, and shall recommend plans for improving or leasing the said lands. Until their report is made, no further grants, leases, or sales of such lands shall be made. The Commissioners are to take an oath to faithfully perform

their duties, and shall not be or become interested in any of the said lands, or rights connected with them, and they are to receive five dollars per day while attending to their duties.

This bill, we understand, has caused much excitement among the friends of the bill to incorporate the American Dock and Improvement Company, which, under a roving commission, modestly asks the State to cede to them the lands covered by water south of the line of the New Jersey Railroad Company. These lands form a tract of about four thousand acres, which are now said to be in demand for wharves, as the increase of shipping directs the attention of merchants to our shore. Speculators, therefore, will be constantly laboring to secure so great advantages from the State, and it is no wonder that the American Dock and Improvement Company, which is composed of sagacious and enterprising citizens of New York, have turned their attention to so profitable an enterprise.

It is believed by those who understand the subject that the revenue from these lands, which now seem so useless to the casual observer, will be sufficient to pay a large portion of the expenses of the State, and relieve the people from taxes after a few years. The bill should therefore receive the cordial support of the Legislature, and it is earnestly hoped that the investigations of the Commission to be appointed, will forever settle the policy of the State in reference to its lands covered by water, thus preventing the yearly attempts of speculators and others from procuring them, and remove from our courts a constant source of annoying litigation.

It is the purpose of the friends of the bill, we understand, to urge its passage by the Legislature next week, and the resistance to it by the friends of the American Dock and Improvement Company will doubtless be spirited, sharp and vigorous. Of course the people will expect from their representatives equal vigilance in protecting the interests of the State in so important a subject.