

At a General Assembly begun and holden at Philadelphia the fourteenth day of October, A. D. 1761, and continued by adjournments unto the fourteenth day of May, 1762, the following acts were passed:

CHAPTER CCCCLXXIII.

AN ACT TO ENABLE THE OWNERS AND OCCUPIERS OF THE WICACO MEADOWS, IN THE COUNTY OF PHILADELPHIA, TO KEEP THE BANKS, DAMS, SLICES AND FLOOD-GATES IN REPAIR AND TO RAISE A FUND TO DEFRAY THE EXPENSE THEREOF.

Whereas there is a certain parcel of meadow land and marsh situate in the township of Moyamensing, in the county aforesaid, beginning at a dam crossing of Hollander's Creek, at Moyamensing Landihg, thence down the said creek [to Hay Creek, thence along the said Hay Creek] to Delaware River, thence up the same to a line dividing the lands of Joseph Johnson from Joseph Wharton, thence along the said line to the fast land, thence along the several courses of the fast land to the place of beginning, herein named and called The Wicaco Meadows, which, for a considerable time past have been embanked, but of late have been greatly impaired and out of order for want of proper management and regulations:

[Section I.] Therefore be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That Jeremiah Elfreth, Stephen Paschall, Hugh Roberts, Andrew Bankson, William Jones, George Gray, David

Gibson and Jonathan Paschall are hereby nominated and appointed, authorized and empowered, within two months after publication of this act, to inspect into and examine the present condition of all the principal or outside banks and dams which surround or include the aforesaid piece of meadow ground, as also into the condition of the several outside sluices or flood-gates thereto belonging, and if it shall appear to them, or a majority of them, that any of the aforesaid banks or dams are not two feet six inches broad at top and do not widen at least sixteen inches in every four feet perpendicular descent and are not at least nine inches higher than the highest tide hitherto known at those banks, or if any of the sluices or flood-gates lying on the river or either of the before-mentioned creeks are not sufficient for keeping out or letting out any water which may be brought thereto, by the tides or drains, they are hereby empowered and required to certify, in writing, under the hands of a majority of them, as soon as conveniently may be done what owner or owners' banks or dams are defective or fall short of the dimensions hereby required, or whose banks ought to be brought higher into their meadows and made entirely new for the better security against floods, and at what places it may be necessary, by reason of the bleakness of situation or badness of materials to defend any bank with stone walls or other durable materials, or what sluices or flood-gates should be laid lower or removed into more convenient places, made wider or longer, or what other renewals or amendments are requisite to either banks, dams, sluices or flood-gates for the security and accommodation of all parties concerned, in the same writing, ordering and directing at whose expense all or each of the aforesaid new banks, (if any be needful) the repairs, enlargement, or any other amendments either in banks, dams, sluices or flood-gates shall or ought in strict justice and equity to be made and done, which judgment or determination of a majority of the eight persons hereinbefore mentioned and appointed shall be binding and conclusive upon all parties therein required to make the renewals or repairs and amendments, and to pay and discharge the several and respective parts of the expenses necessarily accruing there-

by, agreeable to the directions and allotments contained in the writing aforesaid.

[Section II.] And be it enacted by the authority aforesaid, That the managers to be chosen for the ensuing year are hereby strictly enjoined and required to see that every part of the determinations aforesaid be fully and punctually complied with by the persons severally and respectively required, and in case of any neglect or refusal they, the said managers, are hereby required to hire and employ a suitable number of persons to make new, repair, amend or wall with stone any bank, dam, sluice or flood-gate directed by the commissioners hereinbefore mentioned, the managers settling the amount of the costs thereof and proportioning the same to every owner or occupier agreeable to the direction of the commissioners hereinbefore appointed, and in case of refusal or delay of payment to proceed against the delinquent party according to the method herein-after directed for non-payment of the annual assessment or quota money.

[Section III.] And be it enacted by the authority aforesaid, That [after] the aforesaid renewals and repairs have been made agreeable to the direction of the commissioners aforesaid and to the satisfaction of the managers, that all costs and charges of making, amending and maintaining the outside banks, dams, sluices and flood-gates or any other necessary expense that is for a common benefit hereafter to be made shall be done by the direction of the managers for the time being and paid for out of the company's stock by an order of the managers on the company's treasurer.

[Section IV.] And be it enacted by the authority aforesaid, That it shall and may be lawful for the owners and occupiers of the said Wicaco Meadows, or as many of them as shall think fit, to meet together on the first Monday in March yearly and every year at the court-house in Philadelphia or such other convenient place as shall hereafter be appointed by the managers to be chosen by virtue of this act, and then and there, by a majority of those met, shall choose by ballot five fit persons, owners or occupiers of the said meadows, to be managers, and one fit person to be treasurer for the said Wicaco Company for the year then next ensuing.

[Section V.] And be it further enacted by the authority aforesaid, That if any of the owners or possessors elected managers as aforesaid, on due notice given in writing of his election by some of the company present at the said election, shall refuse or afterwards neglect to do the duty required of him or them by this act, he or they so refusing or neglecting his duty shall forfeit and pay to the treasurer for the time being the sum of forty shillings, to be added to the common stock of the said company, unless he shall have served two years successively in the said office next before his said appointment, which fine shall be recovered in the manner hereinafter directed for the recovery of other money payable to the treasurer of the said company and the other managers shall proceed in the execution of their office without him or them, or if they think fit, may choose others of the said owners or possessors to be manager or managers in the place of him or them so refusing or neglecting; and if the person so elected treasurer shall refuse or neglect to take upon him the duties or give the securities required by this act, or shall misbehave himself, or by death or otherwise be rendered incapable to execute the said office, in any of these cases the managers for the time being shall choose another fit person (not a manager) to be the treasurer for that year.

[Section VI.] And be it enacted by the authority aforesaid, That every treasurer hereafter to be chosen shall, before he takes upon him the execution of his office, enter into an obligation with at least one sufficient security in double the value of the money that doth or may probably come into his hands during the continuance of his office as near as can be estimated by the managers, conditioned that he will once in every three months or oftener if required render his accounts to the said managers and well and truly account, adjust and settle with them when required for and concerning all moneys that are or shall come to his hands by virtue of this act or that belong to the said company, and shall well and truly pay the balance that shall appear on such settlement to be in his hands to such persons and to such services as any three of the managers for the time being shall order and appoint and not otherwise, and that he will, at the expiration of his office well and truly pay, or cause to be

paid and delivered, all the moneys then remaining in his hands, together with the books of accounts concerning the same and all other papers and writings in his keeping belonging to the said company [unto his successor in the said office, and that he will do and execute all other matters and things as treasurer to the said company] according to the true sense and meaning of this act.

[Section VII.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said managers to meet together as often as they shall see occasion to direct the necessary repairs and to lay such assessments and taxes on every acre of [the said] land belonging to the said company as they shall judge to be necessary for the benefit and security of the same. And the said managers, or a majority of them, for the time being are hereby empowered, authorized and required to enter upon and inspect, at least six times in each year, the condition of all the said banks, dams, sluices, flood-gates and other conveniences necessary for stopping out the tides and draining the water from the said meadows after the first repairs have been made as hereinbefore directed, and if any part shall appear not sufficiently secure, as being more liable by situation, nature of the soil or other circumstances to be washed away or destroyed than other parts, they, the said managers, shall consider and determine by what method such part or parts may be made good and secure, whether by stone or other firm and durable materials, and on such inspection and determination the said managers shall give notice to and require the owners or possessors of meadows adjoining such defective banks or their guardians (if minors) and within the county of Philadelphia, forthwith to amend their and each of their parts of the banks adjoining their respective meadows in such manner as the said managers shall direct, and the expense and costs of such additions or amendments shall not be put on the person to whom such meadow grounds do belong, but shall be allowed to him and paid out of the common stock, he paying or defraying his proportionable share and part thereof agreeable to the direction of this act.

[Section VIII.] And be it further enacted by the authority

aforesaid, That if any owners or occupiers of the said meadows and lands or any guardian of a minor owner thereof so warned by the said managers shall at any time refuse or neglect immediately after such warning to amend and repair their respective parts agreeable to the direction of the said managers, or if any of the said owners or guardians are not known or readily to be found within the said county at the time aforesaid, that then and as often as it shall so happen it shall and may be lawful to and for the said managers, or any of them, together with such workmen, horses, carts, barrows and other tools as they shall think necessary, to enter into and upon the lands of him, her or them where such breach or defect now is, or shall hereafter happen to be, and then and there to dig and carry earth from the nearest or most convenient place or purchase suitable materials to make, amend and repair the said banks, dams, sluices [and] flood-gates and all conveniencies necessary for stopping out the tide or for draining the waters off the said meadows in such manner and by such ways and means as they, the said managers, shall think fit and reasonable, any law of this province, usage or custom to the contrary in any wise notwithstanding.

And in order to establish a fund to defray sundry contingent and yearly expenses and to prevent any delay hereafter for want of money in case of inundations or extraordinary accidents:

[Section IX.] Be it enacted by the authority aforesaid, That every owner or possessor of meadow land in the aforesaid tract shall, on or before the third Monday in March next after publication hereof, pay or cause to be paid or deposited into the hands of the treasurer aforesaid the sum of four shillings, current money of Pennsylvania, for each and every acre they respectively have, hold, occupy or possess in the said meadow grounds, exclusive of flats, creeks or waste lands. And all and every person or persons, whether owners or renters, who shall, on the first Monday in March, every year hereafter be owners, occupiers or possessors of any of the meadow grounds aforesaid shall, in like manner, pay or deposit or cause to be paid or deposited into the hands of the treasurer for the time being such sum or sums of money as the managers for the time being shall find necessary to assess and order, which sum, if paid by a renter

of any of the said meadow grounds [he] shall and is hereby empowered to deduct the same out of his rent unless he [is] under contract to the contrary with the owner.

So always and provided, That the sum of one hundred pounds shall, in the beginning of every year, be in the treasurer's hands, ready to be applied in the premises, as occasion may require, of all which sums of money and all other money coming to his hands by virtue of this act and of all disbursements and payments thereof from time to time made, the said treasurer shall, in books to be provided for that purpose, keep a just and true account and shall pay and deliver the same according to the directions and orders of the managers for the time being, or any three of them, and not otherwise.

[Section X.] And be it enacted by the authority aforesaid, That the managers for the time being shall, before the day hereinbefore appointed for the payment of the yearly quotas, deposit money or assessment, cause a true list of the names of all and every of the said owners or possessors with a true account of all and every acre of meadow ground as aforesaid within the limits aforesaid, which they respectively have, hold, occupy and possess, exclusive of flats, creeks and waste land, according to the best information they can obtain, noting from time to time the several changes, alterations, transfers and alienations of right in the several parts and parcels thereof as they shall come to their knowledge, and shall furnish the treasurer with a true copy thereof, together with the sum per acre of the general assessment for the current year, when any alteration shall be made of the aforesaid deposit of four shillings per acre, according to which list or account the treasurer for the time being shall receive and take the several sums of their and each of their deposit money and assessment respectively in every year raised or assessed by this act, and shall cause notice of the said rate or assessment per acre to be yearly or oftener inserted in some public gazette or other newspaper at least ten days before the day of payment in every year hereafter.

And in case any of the said owners, occupiers or possessors aforesaid shall refuse or neglect to pay or cause to be paid to the treasurer aforesaid on the days and times aforesaid the several sums of money which they respectively ought to pay or

deposit according to the true intent and meaning of this act, they and each of them so neglecting and refusing shall forfeit and pay to the said treasurer the additional sum of two pence for every shilling unpaid which they respectively ought to have paid by the direction of this act, and afterwards shall, for every three months' neglect or refusal in like manner forfeit and pay to the treasurer for the time being the like sum of two pence for every shilling which he, she or they failed of paying on the day or time appointed when they respectively ought to have paid by the direction of this act.

[Section XI.] And be it further enacted by the authority aforesaid, That if any of the said owners, possessors or occupiers shall neglect or refuse as aforesaid to pay the several sums of money, together with the forfeitures arising thereon which they respectively ought to pay at any time or times hereafter for the space of twelve months after any of the days or times in which it ought to be paid, or shall have neglected or refused to reimburse the treasurer for the time being for any necessary expense agreeable to the directions of this act, that then and so often it shall and may be lawful to and for the said treasurer, by direction of the said managers, or any three of them, in his own name to sue all and every such person or persons so refusing or neglecting for the respective sum or sums of money which he, she or they ought to have paid by virtue hereof by action of debt, if five pounds or under, before any justice of the peace of the county, or if above five pounds in any court of record where the same may be cognizable, and give this act and the said assessment or the said account, as the case may require, in evidence, and the said justices of the peace and the said court are hereby empowered and directed to give judgment and grant execution for the same with costs of suit accordingly, to be levied on the said meadow grounds belonging as aforesaid to such owners or occupiers so neglecting or refusing, and delivered unto the managers for the time being, who, or any three of them, are hereby empowered and authorized to let out on rent any part of the said meadow grounds belonging to any of the said owners who shall so neglect or refuse or who shall not be found in the county as aforesaid from year to year for so long time as

until the rent or rents arising therefrom shall as nearly as may be computed pay all such sum or sums of money so assessed or so charged, together with all costs and forfeitures arising thereon for his or their neglect or refusal to pay the same as aforesaid and no longer.

Provided always, That in letting out the said meadows and grounds the said managers do publicly notify the leasing thereof and let the same to the highest bidder at private sale or bargain.

[Section XII.] And be it further enacted by the authority aforesaid, That no process, suit or proceedings whatsoever, which at any time hereafter shall be commenced, sued or brought before any of the justices of the peace or judges or justices of the common pleas or Supreme Court or before any magistrate of this province in the name of any treasurer of the said company by direction of the said managers, or any three of them, shall be discontinued or put without day by reason of the death, disability or removal of such treasurer, but shall be good and effectual in law to all intents and purposes notwithstanding such death, disability or removal.

[Section XIII.] And it is hereby further enacted by the authority aforesaid, That the managers for the time being, or any three of them, shall have the power of disposing of all moneys paid to the treasurer by virtue of this act and of hiring and appointing, at the expense of the said company [any] person or persons from time to time to inspect the condition of all the banks, dams, sluices and flood-gates belonging to the owners of the said meadow grounds who shall inform the respective owners and the said managers when any repairs are wanting, and the said managers, or any three of them, shall have power to displace such person or persons and appoint others as often as they shall think fit, and have power to offer and pay such rewards as they think necessary out of the common stock for the destruction of such vermin as usually damage the said banks and dams as well as for [other] general services of the said company.

[Section XIV.] And be it further enacted by the authority aforesaid, That the said managers for the time being, or any three of them, are hereby authorized and empowered, in behalf of the said owners, to settle accounts with the treasurer from

time to time, and shall do and execute all other matters and things pertaining to the general good and benefit of the said owners.

Provided, nevertheless, That if any owner or owners shall think him, her or themselves aggrieved by any order, account or proceeding of the said managers, such owner or owners shall, if he or they think proper, choose two fit and disinterested persons, and the said managers, or a majority of them, shall choose two other fit and disinterested persons [which said referees, if occasion require, shall choose one other indifferent person,] who, or any three of them, shall finally settle the same and all other matters and things in dispute that shall be referred to them by the said parties.

[Section XV.] And be it further enacted by the authority aforesaid, That the orders of any three of the managers on the treasurer for the time being shall be complied with by the said treasurer, and shall be good vouchers to indemnify him for the payment and delivery of the money and effects committed to his care by virtue of this act, and that all bonds, mortgages, deeds and conveyances in trust for the use of the said owners shall be taken in the name of the treasurer of the Wicaco Company and be payable to him and his successors, and shall be mentioned to be for the use of the owners of said meadow lands, and with or without assignment shall be good and available in law to his successor or successors in the said trust for the use of the owners aforesaid, and shall be recoverable in any court of record in this province where the same may be cognizable as fully and effectually to all intents and purposes as if the same were private property and duly assigned in all the forms of law, and the receipts and discharges of such succeeding treasurer or treasurers for any such sum or sums of money paid to him or them shall be effectual in law.

And for the more orderly execution of their duty and trust the said managers are hereby required to meet at least once in two months as aforesaid at some convenient place to confer and conclude concerning the matters of this act committed to them, and shall cause fair minutes of their proceedings to be kept in a book to be provided for that purpose in every of which meetings

the resolutions of any three of them shall be entered on their minutes and deemed and taken as the resolutions of the whole, to which minutes and also to the treasurer's accounts all persons concerned shall have free recourse at all reasonable times.

And whereas the well draining, preserving and keeping open the drains of the said meadow grounds is of great importance to the owners:

[Section XVI.] Be it enacted by the authority aforesaid, That all and every of the said owners shall be allowed and permitted to discharge all and any waters off or from their respective grounds through their natural or artificial channels heretofore or already made, each keeping the channels or drains in his own land scoured and cleared at his own particular expense unless there are already contracts amongst any owners to the contrary, and all and every owner shall likewise be permitted and suffered to discharge the said waters by a direct course across the land of any other of the said owners if it shall by the managers for the time being, or a major part of them, be thought necessary or most convenient to the parties concerned for leading the waters into the main channel, creek or sluice best suiting to discharge the same into the aforesaid river or creeks and such owner permitted by the managers to cut a drain or channel through his neighbor's or other owner's meadows shall be allowed and obliged to scour and keep the same clean at his own particular expense when and as often as such person so permitted and the said managers shall think convenient or necessary.

Provided always, That such owner so requiring a passage for his water shall [first] pay all the damages sustained or that shall hereafter be sustained by such neighbor through whose ground the water is to be discharged in such manner and proportion as shall be settled by a majority of the said managers.

[Section XVII.] And be it further enacted by the authority aforesaid, That if any person or persons [shall] wickedly or maliciously cut through and break down or endamage any of the said banks, dams, sluices or flood-gates, either [their] own or others, or shall let in any creek or water to annoy, injure or overflow any of their neighbors' lands and shall thereof be con-

victed before the justices of the court of quarter sessions of the said county of Philadelphia, in all such cases the persons so offending shall be fined treble the value of all the damages, to be assessed by two or more indifferent persons to be appointed by the said court to value the same, which fine shall be added to the common stock for the general use and benefit of the said company.

Passed February 17, 1762. Referred for consideration by the King in Council, February 14, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Acts of Assembly passed February 15, 1765, Chapter 523; February 18, 1769, Chapter 584; March 22, 1784, Chapter 1085; March 29, 1824, P. L. 191; April 12, 1828, P. L. 351; February 6, 1830, P. L. 42; April 13, 1859, P. L. 621.

CHAPTER CCCCLXXIV.

AN ACT TO ENABLE THE OWNERS AND POSSESSORS OF A CERTAIN TRACT OF MARSH AND MEADOW LAND THEREIN DESCRIBED, SITUATE IN THE COUNTIES OF PHILADELPHIA AND CHESTER, TO KEEP THE BANKS, DAMS, SLUICES AND FLOOD-GATES IN REPAIR AND TO RAISE A FUND TO DEFRAY THE EXPENSE THEREOF.

Whereas there is a certain parcel of marsh and meadow land situate in the township of Kingsessing, in the county of Philadelphia, commonly known by the name of Boon's Island and Carcus Hook Marsh and also other parcels of drained marsh situate in the township of Ridley, in the county of Chester, the whole of which several parcels is contained within the bounds following, to wit: Beginning at the fast land of Peter Elliot to the southward of said Elliot's house, thence down Darby Creek to a new bank lately made by said Elliot, thence by Darby Creek to Grun Creek, thence by the said Grun Creek and Plumb Creek to the river Delaware, thence up the same to Bow Creek and up Bow Creek to Boon's Creek and thence up the said Boon's Creek to the fast land near the houses of John Justice and Andrew Cocks, thence by the fast land to the dam now in use over Kingsessing Creek to Boon's, Knowles', Blakely's and the Province Islands thence crossing by the said dam to the fast land on