

one hundred thousand pounds, the incident charges as aforesaid being defrayed, the overplus shall be disposed of and appropriated towards making good and discharging any deficiency or deficiencies which have already accrued or may hereafter accrue upon any or either of the acts of assembly of this province heretofore enacted for granting money to the King's use.

Passed April 12, 1760. See the notes to the Acts of Assembly passed March 5, 1725-26, Chapter 289; and November 27, 1755, Chapter 406; and the Act of Assembly passed May 30, 1764, Chapter 513.

CHAPTER CCCCLIV.

AN ACT TO ENABLE THE OWNERS AND POSSESSORS OF THE MEADOW AT POINT NO POINT, IN THE PRECINCT OF RICHMOND, IN THE COUNTY OF PHILADELPHIA, TO KEEP THE BANKS, DAMS, SLUICES AND FLOOD-GATES IN REPAIR AND TO RAISE A FUND TO DEFRAY THE EXPENSE THEREOF.

Whereas great controversies frequently arise between the owners of meadows near the city of Philadelphia, occasioned by their or some of their neglect to keep their respective banks, dams, sluices, flood-gates and drains in repair, whereby great damages have happened and the labor and expense of a whole neighborhood may be rendered ineffectual by the default of a part.

And whereas all the owners of the said meadows cannot, in many cases, be induced speedily to repair the breaches that may be made from time to time in the banks, dams, sluices and other necessary means practicable for sustaining the whole or any part of the said meadows nor can they be compelled to contribute a proportionable part of the charge which may be incurred by such repairs without the aid of the legislature. And forasmuch as the good maintenance of meadows conduces to public utility as well as private property and in a great measure to prevent sickness that may be occasioned by the said meadows lying under stagnated water:

[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 a certain tract of banked and improved meadow, commonly called Point No Point Meadows, fronting the river Delaware in the precinct of Richmond, in the township of the Northern Liberties, in the county of Philadelphia, lying between the mouth of Gunner's Creek and the mouth of Frankford Creek, bounded on the southeast by the said river and on the other parts by upland belonging to several owners of the said meadows; which said tract of banked and improved meadow shall be and hereby [is] divided into several allotments by lines which extend from the upland to the said river in manner following, to wit: the lower and southwest end of the said tract claimed by the heirs of William Ball, deceased, bounded on the southwest by upland of the said heirs and extending up to a creek dividing the said Ball's meadow from the meadows of the heirs of Edward Warner, deceased, shall be one allotment.

And from the last-mentioned division creek extending cross the meadows of the heirs of the said Edward Warner and of Joseph Fox and others to the line dividing them from the meadow of William Callender shall be one other allotment.

Thence extending cross the meadow of the said William Callender to the line dividing it from Parrock's meadow shall be one other allotment.

Thence cross the said Parrock's meadow to the line dividing this from the meadow of Michael Hillegas shall be another allotment.

Thence cross the said Hillegas' meadow to the line dividing it from the meadow late of Joseph Lynn, deceased, shall be one other allotment.

Thence cross the meadow late of the said Joseph Lynn to the line dividing the same from the meadow of Jeremiah Elfreth and company shall be another allotment.

Thence cross the meadow of the said Elfreth and company to

the line dividing the same from Samuel Oldman's meadow shall be another allotment.

Thence cross the meadow of Samuel Oldman to the line dividing it from Robert Hopkins' meadow shall be another allotment.

Thence cross the meadows of the said Hopkins and Hugh Roberts to the line of William Moore's meadow shall be another allotment.

Thence extending cross the said meadow of William Moore to the bank where it joins his upland shall be one other allotment and the upper end of the said meadow tract.

[Section II.] And be it further enacted by the authority aforesaid, That the owners of the said tract of [meadow] shall be henceforth named Richmond Company, and that they or as many of them as shall think fit shall and may meet on the second Monday in June next at the court-house in Philadelphia, who shall and may give notice by advertisement in the Pennsylvania or some other public English Gazette or Journal of the time and place of such meeting ten days before such time, and from and after the second Monday of June next such meeting to be on every first Monday in the months of September, December, March and June yearly, due notice being given by the managers to be chosen as hereinafter directed of the time and place of meeting ten days before such time [and] at every such meeting in the month of June aforesaid the said owners or as many of them as shall meet shall, by a majority, choose by ballot four fit persons or possessors of the said meadows at Point No Point to be managers and one fit person to be treasurer for the whole company aforesaid during the year then next ensuing.

[Section III.] And be it enacted by the authority aforesaid, That if any of the said owners or possessors elected or to be elected managers as aforesaid on due notice given and to be given to him or them of his or their 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 as a manager shall forfeit and pay to the treasurer for the time being, to be appointed as hereinafter mentioned, the sum of forty shillings, to be added to the common stock of the said Richmond Company, unless he shall have served three years successively in the

said office, which fine shall be recovered in manner hereinafter mentioned for the recovery of all other money payable to the treasurer of the said company, and the other managers shall proceed in their duty, or if they think fit may choose other of the said owners or possessors as manager or managers in the place of him or them refusing or neglecting as aforesaid.

[Section IV.] And be it [further] enacted by the authority aforesaid, That every treasurer hereafter to be chosen for the said Richmond Company shall, before he take upon him the execution of his office, enter into an obligation with one sufficient surety in a penal sum double the value of the money that doth or may probably come into his hands during the continuance of this act, 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 belonging to the said Richmond Company, and shall and will well and truly pay the balance that shall appear on such settlement to be in his hands or any part or parts thereof unto such person or persons from time to time and for 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 deliver up and pay the balance of the money 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 Richmond Company, unto his successor in the said office and that he will do and execute all other things as treasurer to the said company according to the true intent and meaning of this act.

[Section V.] And be it enacted by the authority aforesaid, That the owners, occupiers or possessors of the aforesaid allotments whose banks, dams, sluices or flood-gates are in anyways defective shall, within three months from the publication hereof, cause them to be put in good and substantial repair, and make up or cause their respective parts of the banks cross their whole front next Delaware to be made up level on the top and sufficiently strong and secure to defend their respective meadows

from all inundations, for which end the said banks shall be always kept at least six inches above all tides; and when each and every of the owner and owners within his or their respective allotments shall have made up and defended his or their banks or those which have been deemed so, in as secure and durable a manner as any of the other owners in the same allotment have done, all future charges shall be equally borne and paid by the present and future owners, occupiers or possessors of the said meadows in proportion to the number of acres he, she or they do or may hold or own within the banks of their respective allotments; and the said owners or occupiers shall cause the said banks, dams, flood-gates and sluices to be constantly kept in the like good order and also any sluice or other security that may be directed by the said managers.

And the said managers for the time being in every year are hereby empowered, authorized and required to inspect at least four times in each year the condition of every of the said banks, [dams], sluices, flood-gates and other conveniences necessary for stopping out the tides or draining the waters from the said meadows, and if any shall appear unfinished, damaged, decayed or destroyed or shall be any other wise insufficient for the purposes aforesaid, they, the said managers, shall consider and determine by what methods such part or parts may be made good and secure and the said managers shall give notice to one or more of the owners or possessors of the allotment in which such defect shall happen to be, or to the guardians (if minors), and to be found in the county of Philadelphia, whose duty it shall appear to the said managers to be and require him or them forthwith to make or mend the banks, dams, sluices, flood-gates or other conveniences within their respective allotments in such manner as they, the said managers, shall think fit and necessary for the security aforesaid.

[Section VI.] And be it enacted by the authority aforesaid, That if at any time hereafter any of the said owners or occupiers of any of the allotments aforesaid or any guardian of a minor owner thereof so warned by the said managers for the time being, shall refuse or neglect after such warning to make amend or repair their or any of their respective parts agreeable to the

directions of the said managers, or if any of the said owners or guardians are not to be readily found within the said county at the time aforesaid, that then and thereafter, 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 tools as they shall think fit to enter into and upon the said land of him, her, them or any of them so neglecting or refusing or not to be found in the said county, and then and there to dig and carry earth or purchase suitable materials to make, amend and repair the said banks, dams, sluices, flood-gates and all other conveniences necessary for stopping out all tides or for draining the waters off the meadow in such manner and by such ways and means as they shall think fit and reasonable, any law of this province, usage or custom to the contrary in any wise notwithstanding. And they, the said managers, or any three of them, shall adjust and settle the expense thereof among the owners of the respective allotments as they shall think just and reasonable, having regard to the number of acres each owner shall have within the said allotment, and shall also deliver to the said owners, guardians or possessors of the allotment on which the repairs shall be made or to as many of them as are to be found as aforesaid their respective bills of the charge or proportion of the charge of the said banks, dams, sluices, flood-gates and conveniences as aforesaid and shall order payment accordingly, and in case of their or any of their refusal or delay of payment, they shall order the treasurer for the time being to advance and pay so much of the company's money as shall be sufficient to satisfy the said charge until it can be obtained from those who ought to pay the same.

Provided always, That nothing herein contained shall be deemed or construed to dissolve any contract made or to be made between any of the said owners or possessors relating to the premises or any part thereof so that such contracts shall not [retard or] interfere with the general improvement or security hereby intended:

And provided, That if any owner, occupier or possessor of meadow in the aforesaid tract shall make any necessary repair

of the bank, dam, sluice, trunk or other convenience within his respective allotment such part of the said expense as shall be certified under the hands of the managers to be just and reasonable for the other owners, occupiers or possessors therein to pay, shall, on their refusal or neglect of payment, be recovered by the treasurer in manner hereinafter directed for recovery of any repairs made by the managers and shall be repaid to the person or persons who shall make the said necessary repairs.

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

[Section VII.] Be it enacted by the authority aforesaid, That every owner or possessor of land in the aforesaid meadow tract shall, on or before the second Monday in July next after the publication hereof, pay or deposit, or cause to be paid or deposited, in the hands of the treasurer aforesaid, the sum of one shilling current money of Pennsylvania for each and every acre they respectively have, hold, occupy or possess within the banks in the aforesaid tract, and all and every person who shall on the second Monday in July in every year hereafter be owner, occupier or possessor of meadow land in the said tract shall, in like manner, pay or deposit or cause to be paid or deposited on the second Monday in July in every year in the hands of the treasurer for the time being the sum of one shilling for each and every acre of meadow which they respectively shall so have, hold, occupy or possess in each and every year, until the sum of one hundred pounds or value [thereof] in good securities shall be and remain in the hands of the treasurer, after payment of all charges then accrued and no longer; and that afterwards they and such as shall hereafter be owners or possessors shall pay and deposit such sum or sums on the second Monday in July in every year as the managers for the time being shall find necessary to assess and order.

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 of 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 some three of them; and if any person hereafter to be elected treasurer shall refuse or neglect to take upon him the duties of his office or to give the security hereby required or shall afterwards misbehave himself or be rendered incapable of the duties of the said office, in any or either of the said cases the managers for the time being, or any three of them, shall choose another fit person not a manager to be the treasurer till the next ensuing election.

[Section VIII.] And be it 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 Richmond Company and payable to him and his successor, and shall be mentioned to be for the use of the owners thereof, and with or without assignment shall be good and available in law to his successor and successors in the said trust for the use of the owners as 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.

[Section IX.] And be it enacted by the authority aforesaid, That no process, suits or proceedings whatsoever which at any time hereafter shall be commenced, sued or brought before any of the justices of the peace, or judges of the common pleas or supreme court, or before any magistrates of this province in the name of any treasurer of the said Richmond Company shall be discontinued or put without a day by reason of the death, disability or removal of such treasurer; but shall stand good and

effectual in law to all intents and purposes notwithstanding such death, disability or removal.

[Section X.] And it is hereby further enacted by the authority aforesaid, That the managers for the time being shall before the day hereinbefore appointed for 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 in the aforesaid tract which they respectively [have] hold, occupy or possess exclusive of banks and flats, 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 in the aforesaid deposit of one shilling; 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 respectively in every year raised or assessed by this act, and shall cause public notice of the said rate or assessment per acre to be given 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, or any part thereof 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 or 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 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 pay by the direction of this act.

[Section XI.] And be it further enacted by the authority aforesaid, That if any of the said owners, occupiers or possessors

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 make, amend or repair his, her or their bank, dam, sluice, flood-gate or other conveniences or any of them, or any part which they the said owners, occupiers or possessors ought to have done, or shall have refused or neglected to reimburse the treasurer for the time being the necessary expense thereof agreeable to the direction 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 or 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 justice 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; or the said managers, or any three of them, shall, if they think fit and they are hereby empowered and authorized to let out on rent any part of the said meadow belonging to any of the said owners who shall neglect or refuse as aforesaid, or who shall not be found in the county as aforesaid, from year to year or for so long a 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 the forfeitures arising thereon for neglect or refusal to pay the same as aforesaid, and no longer.

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

[Section XII.] And it is hereby 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 banks, dams, sluices and flood-gates near the river Delaware and within the said tract of meadow land, and to inform their respective owners or the said managers when any repairs are wanting and may displace such person or persons and appoint others as often as they shall think fit; and the said managers shall have power to dispose of the money in the treasurer's hands as aforesaid for the destruction of such vermin as usually damage the said banks and dams or for any other general service of the said Richmond Company, and may advance of the said moneys any sum or sums that may be necessary for making, amending or repairing any of the said banks, dams, sluices or flood-gates till the same can be recovered of the respective owners as aforesaid.

[Section XIII.] And be it further enacted by the authority aforesaid, That the said managers are hereby authorized and empowered in behalf of the said company, and they shall 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, proceeding or account of the said managers, such owner or owners shall choose two fit and disinterested persons, and the said managers, or some three of them, shall choose two other fit and disinterested persons, who (or any three of them so chosen as aforesaid) shall finally settle the same and all other matters and things in dispute.

And whereas the well draining, preserving and keeping open the drains of the respective allotments is of great service and importance:

[Section XIV.] Be it enacted by the authority aforesaid, That all and every of the said owners shall be permitted, allowed and suffered to discharge all or any of their waters through their natural or artificial channel that may be within their allotment, or by a direct course over and across the land of any other of the owners within their allotment, as shall by the managers for the time being, or the major part of them be judged convenient, into

the main channel, creek or sluice best suiting to discharge the same into the river Delaware, and shall be admitted and suffered to open, scour and cleanse the same when and as often as they and the managers shall think necessary and convenient, any law, custom or usage to the contrary notwithstanding.

Provided always, That such owner or owners requiring a passage for his, her or their water shall first pay all damages sustained or to be sustained by such neighbor through whose land the water is to be discharged and also such proportional parts of the charge of banks, dams, sluices, flood-gates or other conveniencies as have been settled by the managers to be his or their part within any allotment. And for the more orderly execution of their duty and trust the said managers are hereby required to meet at least once in three months at some convenient place to confer and conclude concerning the matters hereby committed to them, and shall cause fair minutes of their proceedings to be kept in a book provided for that purpose; in every of which meetings the resolution of any three of them shall be entered on their minutes and deemed and taken as the resolution of the whole, to which minutes and also the treasurer's accounts all persons concerned shall have free recourse at all seasonable times.

Passed April 12, 1760. Referred for consideration by the King in Council, January 20, 1761, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXII, Sections I, III and VII, and the Acts of Assembly passed February 15, 1765, Chapter 523; September 24, 1789, Chapter 1444; March 16, 1791, Chapter 1534; March 25, 1848, P. L. 250.

CHAPTER CCCCLV.

AN ACT TO ENABLE THE OWNERS OF GREENWICH ISLAND TO EMBANK AND DRAIN THE SAME, TO KEEP THE OUTSIDE BANKS AND DAMS IN GOOD REPAIR FOREVER, AND TO RAISE A FUND TO DEFRAY SUNDRY CONTINGENT AND YEARLY EXPENSES ACCRUING THEREON.

Whereas the improvement of meadow ground is not only useful to the owners and possessors thereof, but is also of great