

of assembly and no longer, except they shall be reappointed by the assembly.

[Section V.] And be it further enacted by the authority aforesaid, That so much of the act before mentioned, entitled "An act to prevent the exportation of bread and flour not merchantable,"¹ as is hereby altered and supplied, shall be and is hereby repealed and declared null and void, but that all other clauses, matters and things in the said act contained shall be and are hereby declared to be in full force and virtue as fully to all intents, purposes and constructions as if this present act had not been made.

[Section VI.] And be it further enacted by the authority aforesaid, That this act shall continue in force for the term of seven years and from thence to the end of the next sitting of assembly and no longer.

Passed February 21, 1767. Referred for consideration by the King in Council, December 17, 1767, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXVI, Sections I and II, and the note to the Act of Assembly passed January 19, 1733-34, Chapter 332. Expired.

CHAPTER DXLIX.

AN ACT TO ENABLE THE OWNERS AND POSSESSORS OF THE MOYAMENSING MEADOWS, IN THE COUNTY OF PHILADELPHIA, TO KEEP THE BANKS, DAMS, SLUICES AND FLOODGATES IN REPAIR AND TO RAISE A FUND TO DEFRAY THE EXPENSES THEREOF.

Whereas there is a certain parcel of meadow land situate in the townships of Moyamensing and Passyunk, in the county of Philadelphia, beginning at the new bridge which crosses Hollander's creek, thence along the road leading from Joseph Turner's plantation into the road leading from Reynold Keen's house, now in the tenure of Jacob Whitman, to Passyunk road, thence round the several meadows of Reynold Keen, Samuel Wheeler, John Lownes and Jacob Bankson so far as is over-

¹ Passed January 19, 1733-34, Chapter 332.

flowed by a common spring tide to another part of the said road leading from the said house of Reynold Keen to Passyunk road, thence up the said road to Hollander's creek, thence down the several courses of Hollander's Creek aforesaid to the place of beginning, commonly called the Moyamensing 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 John Penn, 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 all and every the owner and owners, possessor and possessors, of land within the boundaries aforesaid, or so many of them as shall think fit, may meet on the first Monday in March next, at the house of George Young, in Moyamensing aforesaid, and then and there, by a majority of those met, shall choose by tickets in writing three fit persons, owners or possessors of lands within the said boundaries or district, to be managers and one fit person to be treasurer for the year ensuing.

[Section II.] And be it enacted by the authority aforesaid, That all and every the owners, occupiers and possessors of such parts of the said meadow land as bound upon Hollander's creek and Dam creek, whose shares or parts of the banks are in any wise defective, and the owners, occupiers and possessors of meadows within the said district whose dams, sluices or flood-gates are in any wise out of repair, shall respectively within three months from the making this act cause them to be put in good and substantial repair, and make up or cause their respective parts of the banks as aforesaid to be made up level on the top and sufficiently strong and secure to defend the said meadows from all inundations, for which end the said banks shall be made at least twelve inches above all tides by each and all of the said owners, possessors or occupiers on their and each of their re-

spective parts which bound as aforesaid, under the penalty of ten shillings for every perch out of repair, to be paid to the said company's treasurer by the person or persons so neglecting or refusing, to be levied by the managers for the said district hereafter to be chosen, if they see cause, and added to the common stock; and moreover if any owners, occupiers or possessors of meadows within the said district shall neglect to repair the banks, dams, sluices or floodgates in manner aforesaid to them respectively belonging for the said space of three months, then and in such case the managers to be chosen as aforesaid are hereby authorized and required, upon the credit and out of the public stock to be raised for that particular purpose by assessment as hereinafter directed, to buy and provide the necessary utensils, implements and materials and to hire and employ a suitable number of persons to make new, repair, amend or wall with stone any bank, dam, sluice or floodgate belonging to such delinquent or delinquents in manner as herein is before directed, and to settle and adjust the amount of the costs thereof and to demand and recover the same from such delinquent according to the method hereinafter directed for non-payment of the assessments or quota money.

[Section III.] And be it enacted by the authority aforesaid, That after the renewals and repairs have been made agreeable to the directions of this act as aforesaid to be examined and judged of by the managers to be chosen as aforesaid [that] all costs and charges of making, amending and maintaining the banks, dams, sluices and floodgates within the said district or any other matter or thing hereafter to be made or done for the common benefit shall be made or done by the direction of the managers for the time being, or any two of them, and be paid for out of the company's stock by an order of such managers on the company's treasurer, and the said managers are hereby authorized and required, at least four times a year and oftener as they or any of them see occasion, to enter upon and inspect the condition of all the said banks, dams, sluices, floodgates and other conveniences necessary for stopping out the tides, and to make and do all such matters and things respecting the same as are or shall be necessary for the common benefit and at the

common expense as aforesaid after the first renewals and repairs have been made as hereinbefore directed.

And in order to enable the managers to comply with the directions of this act as aforesaid:

[Section IV.] Be it enacted by the authority aforesaid, That the said managers hereafter to be chosen, or any two of them, shall lay a rate or assessment not exceeding ten shillings per acre at one time and so from time to time as they shall see occasion, upon all and every the owner or owners, possessor or possessors of meadow land within the said district in proportion and according to the quantity such owner or possessor shall or may hold; and if any dispute shall arise about the quantity any owner or possessor holds within the said district, the same shall be ascertained by a survey to be made by some skillful surveyor at the expense of such owner or possessor, which said rate or rates from time to time the said owners or possessors shall, within ten days after demand made, pay to or deposit in the hands of the said treasurer, there to remain subject to the drafts and orders of the said managers, or any two of them, for the purposes aforesaid; and if the said rates or assessments are paid by the tenants or renters, the same shall or may be deducted out of their rent, unless he or they are under a contract to the contrary with the owner or owners.

[Section V.] And be it enacted by the authority aforesaid, That it shall and may be lawful for the owners and possessors of the said meadows within the said district, or as many of them as shall think fit, to meet together on the first Monday in March yearly and every year, at the said house of George Young, in Moyamensing aforesaid, or such other convenient place as shall hereafter be appointed by the managers to be chosen as aforesaid, and then and there, by a majority of those met, shall choose by ballot or tickets in writing three fit persons, owners or possessors of land in the said district, to be managers and one fit person to be treasurer for the said district for the year then next ensuing.

[Section VI.] And be it 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 district, unless he shall have served two years successively in the said office, which fine shall be recovered in the manner hereinafter directed for the recovery of other money payable to the said treasurer, and the other manager or managers shall proceed in the execution of his or their office without him or them, or if he or they think fit may choose other or 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 security 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 or any two of them for the time being shall choose another fit person (not a manager) to be treasurer for that year.

[Section VII.] 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 to the managers for the time being in double the value of the money that doth or probably may come into his hands during his continuance in 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 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 to be in his hands or any part of it to such persons and to such services as any two 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 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 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 owners according to the true sense and meaning of this act.

[Section VIII.] And be it further enacted by the authority aforesaid, That the managers for the time being, or any two of them, shall, before the day hereinbefore appointed for the payment of the yearly quotas or assessments, 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 or possess, exclusive of flats and creeks, according to the best information they can obtain by surveys or otherwise at the expense of the company, noting from time to time the several changes, alterations and transfers 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 time or year, according to which list or account the treasurer for the time being shall demand and receive the several sums of their assessments in every year raised or assessed by this act, and shall cause notice of the said rate or assessment per acre to be given at least ten days before the day of payment in every year; and in case any of the said owners, occupiers or possessors 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 he or they respectively ought to pay, 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 so unpaid, 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 IX.] And be it further enacted by the authority aforesaid, That if any of the said owners or possessors shall neglect or refuse as aforesaid to pay the several sums of money hereinbefore directed to be raised and paid, together with the forfeitures hereby imposed which they respectively ought to pay

at any time or times hereafter for the space of three months after the same ought to be paid aforesaid, or shall neglect or refuse on demand to reimburse the treasurer for the time being the necessary costs and expense of making or repairing his, her or their banks, dams, sluices or floodgates in manner as is hereinbefore directed, that then it shall and may be lawful to and for the said treasurer, by direction of the said managers, or any two 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 in evidence as the case may require; 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, to be levied on the goods and chattels or on the tract or piece of meadow belonging as aforesaid to such owner or owners so neglecting or refusing and delivered unto the managers for the time being, who, or any two of them, are hereby empowered and authorized to sell the said goods and chattels or to let out on rent the said meadow or any part thereof belonging to any of the said owners or possessors who shall so neglect or refuse or who shall not be found in the county 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 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 meadow the said managers do publicly notify the leasing thereof and let the same to the highest bidder at private sale or bargain.

[Section X.] And be it enacted by the authority aforesaid, That no suit, process or proceeding whatsoever which at any time hereafter shall be commenced, sued or prosecuted in manner hereinbefore directed shall be discontinued or put without 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 XI.] And be it further enacted by the authority aforesaid, 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 Moyamensing [Meadow] Company and be payable to him and his successors for the use of the said company, and shall be good and available in law to his successor or successors in the said trust for the uses aforesaid, and shall be recoverable in any court of record within this province where the same may be cognizable as fully and effectually, with or without assignment, to all intents and purposes as if the same were private property and duly assigned in all the forms of law.

[Section XII.] And be it enacted by the authority aforesaid, That if any owner or owners, possessor or possessors, shall think him, her or themselves aggrieved by any order, account or proceeding of the said manager, such owner or owners, possessor or possessors, shall, if he, she or they think proper, choose two fit and disinterested persons [and the said managers, or any two of them, shall choose two other fit and disinterested persons], who, or any three of them, shall finally settle the same; but if the four referees so to be chosen should be equally divided in respect of the said dispute, then they are hereby empowered to call to their aid and choose one other fit and disinterested person, who, concurring with any two of the said referees, shall in conjunction with them finally settle the said dispute.

[Section XIII.] And be it enacted by the authority aforesaid, That if any person or persons shall wickedly and maliciously cut through, break down or endamage any of the said banks, dams, sluices or floodgates, 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 convicted before the justices of the court of quarter sessions of the said county of Philadelphia, in all such cases the person or 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 district.

Passed February 21, 1767. Referred for consideration by the King in Council, December 17, 1767, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXVI, Section II, and the Acts of Assembly passed February 18, 1769, Chapter 584; March 22, 1784, Chapter 1085; April 12, 1828, P. L. 351; February 6, 1830, P. L. 42; April 13, 1859, P. L. 621.

CHAPTER DL.

AN ACT FOR THE RELIEF OF THOMAS REILLY AND JOHN WHITPANE, LANGUISHING PRISONERS IN THE GAOL OF PHILADELPHIA, WITH RESPECT TO THE IMPRISONMENT OF THEIR PERSONS.

Whereas it hath been represented to the assembly by the several petitions of Thomas Reilly and John Whitpane that they are languishing prisoners in the gaol of Philadelphia and that, although they are willing to assign over all their respective effects to the use of their creditors for the payment of their debts and to discharge such as shall thereafter remain unpaid as soon as by their industry they can find means of satisfying such creditors, yet by their imprisonment they are disabled from putting in execution their just intentions and are reduced to great distress:

[Section I.] Be it therefore enacted by the Honorable John Penn, 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 the justices of the county court of common pleas for the county of Philadelphia, or any three of them, shall, on application for that purpose to them in writing made by the said Thomas Reilly and John Whitpane, or either of them, appoint a certain day and place for holding a special court of common pleas whereof due notice shall be given to the creditor or creditors at whose suits they respectively stand charged, by leaving the same in writing at his, her or their last place of