

by them shall be severally paid and of the respective balances by them paid to the treasurer aforesaid, and the said treasurer within four months after the same, shall lay his accounts before the justices at their court of quarter sessions of the peace for the county of Philadelphia, to be by them examined and adjusted.

Provided always, That the said lottery be erected and drawn within two years from the publication hereof.

[Section XVII.] And be it further enacted by the authority aforesaid, That any of the said managers shall and may from time to time as occasion may happen bring actions in their or either of their respective names against any person or persons indebted to them, or any of them, for the sale of tickets, or against any other person or persons concerned in the execution of this act for any breach of trust therein.

[Section XVIII.] And be it further enacted by the authority [aforesaid], That the said treasurer shall and may from time to time as occasion may happen bring actions in his own name against any of the managers aforesaid for or on account of such balances as may severally remain in their hands, or for and on account of any breach [of trust in the execution of this act].

Passed February 18, 1769. Referred for consideration by the King in Council, February 26, 1770, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXVII, Section I.

CHAPTER DLXXXIV.

AN ACT TO ENABLE THE OWNERS AND POSSESSORS OF THE WICACO AND MOYAMENSING MEADOWS TO ERECT A DAM ACROSS HOLLANDER'S CREEK NEAR ITS JUNCTION WITH HAY CREEK, AND FOR OTHER PURPOSES THEREIN MENTIONED.

Whereas it has been represented to the general assembly of this province by petition of sundry owners of the Wicaco and Moyamensing Meadows, in the county of Philadelphia, that for some years past they have found the banks of their respective

tracts subject to great damage and frequent breaches from sudden high tides and freshes in a large inlet of Hollander's creek, extending to a considerable distance between the said meadow tracts, and that those mischiefs cannot be effectually remedied but by raising a substantial dam across the said creek near the mouth of Little Hay creek to prevent the waters flowing up the said Hollander's creek:

[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 Jacob Cooper, William Parr, William Ball, George Gray, Henry Elwes, David Gibson and Joseph Penrose, of the county of Philadelphia, gentlemen, are hereby nominated and appointed, authorized and empowered, as soon as conveniently may be after the passing of this act to view the premises and to order and direct the erecting of a substantial dam across Little Hollander's creek below the mouth of Little Hay creek and near the junction of the waters of Great Hollander's creek and Great Hay creek, of such dimensions and materials as they, or the major part of them, shall think will best answer the good purposes for which this act is intended, and the said Jacob Cooper and William Parr, William Ball, George Gray, Henry Elwes, David Gibson and Joseph Penrose, or a majority of them, shall consider of, ascertain and settle the value of the flats and bottom of the creek and how much per acre every owner of land on both sides of the said Little Hollander's creek above the said dam ought to pay in consideration of the quantity of land which by stopping out the said creek will be converted into meadow; and further, in what proportion or how much in the pound all the owners of the embanked Wicaco Meadows for their district and all the owners of the embanked Moyamensing Meadows for their district shall bear or contribute towards the charges of erecting the said dam, of all which their proceedings in the premises they shall make out two cer-

tificates and orders in writing signed by them, or the majority of them, one thereof directed to the managers of the district or tract of land called Wicaco Meadows for the time being appointed by the act of general assembly passed in the second year of His Majesty's reign, entitled "An act to enable the owners and occupiers of Wicaco Meadows, in the county of Philadelphia, to keep the banks, dams, sluices and floodgates in repair and to raise a fund to defray the expense thereof,"¹ and the other to the managers of the district or tract of land called Moyamensing Meadows for the time being appointed by one other act of general assembly of this province made in the seventh year of His said Majesty's reign, entitled "An act to enable the owners and occupiers of the Moyamensing Meadows, in the county of Philadelphia, to keep their banks, dams, sluices and floodgates in repair and to raise a fund to defray the expense thereof."²

[Section II.] And it is hereby further enacted by the authority aforesaid, That the managers of the said two several meadow tracts or districts shall and they are hereby strictly enjoined and required to raise and build the said dam across Little Hollander's creek agreeable to the directions in the aforesaid certificate and order contained, and for effecting the same the said managers shall have full power and authority by themselves, their servants and workmen to enter, pass and repass into and from the lands of any person or persons adjoining the said Hollander's creek, on either side thereof, with horses, carts and other carriages over the ground of the said owners, or by flats or boats to come up and down Hollander's creek or Hay creek to and from the place where the said dam is to be erected until the same shall be finished as aforesaid.

Provided always, That any damages which may accrue to any owner by furnishing mud for erecting the said dam or by passing over the ground of any of the said owners shall be paid or allowed to such owner or owners out of the same assessments as the expense of erecting the said dam are hereinafter directed to be paid.

¹ Passed February 17, 1762, Chapter 473.

² Passed February 27, 1767, Chapter 549.

And for defraying the cost and expense of the said dam :

[Section III.] Be it further enacted by the authority aforesaid, That the said managers in their respective districts shall inform themselves by surveys for that purpose to be made of the exact quantity of the lands which will be hereafter drained and rendered in future more valuable to their respective owners within the two districts aforesaid as well as of the low, swampy lands contiguous thereto, and having made a calculation of the value thereof shall order and direct their respective treasurer to demand and receive of each of the owners of the said meadows, marsh or swampy lands hereby directed to be drained so much money as his reasonable and just proportion shall amount to, agreeable to the valuation aforesaid, which payments are to be made to the treasurer of the respective district within the space of ten days from the date of such order or direction; and if the several sums of money to be received on the said orders shall not be sufficient to pay all the expense of erecting the said dam, the residue of the said expense shall be made up and contributed by all the owners of meadow lands in the Wicaco and Moyamensing districts, each district to be charged with such proportion of the said residue as in the said certificates shall be specified. And the managers of the Wicaco Meadow Company shall assess and settle the rate charged on their district upon and among all the owners of land in the same (those bounding upon the creek not excepted) in proportion to the quantity of acres of land which they hold in the said district. And the managers of the Moyamensing Meadow Company shall likewise assess and settle the rate charged on their district upon and among all the owners of land in the same (those bounding upon the creek not excepted) in proportion to the quantity of acres of land which they hold in the said district.

And the managers of the said Wicaco and Moyamensing districts shall order and direct their respective treasurers to demand and receive of and from the several owners of land in their districts respectively the sums of money so assessed on them as aforesaid, which sums shall be paid to the respective treasurers within the space of ten days from the date of such order of the managers.

And if any of the said owners of land shall refuse or neglect to pay within the said space of ten days any of the sums of money which by the direction of this act shall be assessed on him, after due notice given to him or to his tenant, the respective treasurer of the district in which the land of such owner lieth and all other lands hereby directed to be drained is hereby authorized and required to sue for and recover the sum and sums of money so assessed and unpaid in the same manner as the rates and assessments to be raised by the before recited acts in the said districts respectively are directed to be raised and paid.

[Section IV.] And be it further enacted by the authority aforesaid, That the moneys which by virtue of this act shall come to the hands of the respective treasurers of Wicaco and Moyamensing Meadow Companies shall be subject to the drafts and orders of their respective managers, or the major part of them, and shall be applied and expended agreeable to the directions of this act.

And whereas in and by the said two several recited acts of general assembly of this province it is directed and enjoined that every owner and possessor of meadow land in the aforesaid tracts shall for the purposes in the same acts mentioned be rated and pay for each and every acre they hold, occupy and possess in the said meadow grounds exclusive of flats and creeks; and forasmuch as by the execution of this act a considerable quantity of flats and creek may be converted into meadow ground and accrue to the several owners of meadow bounding upon the said Hollander's creek in both districts:

[Section V.] Therefore be it enacted, That after the said dam agreeable to the directions of this act shall be erected and finished the respective managers of the Wicaco and Moyamensing Meadow Companies shall assess and rate the owners and possessors of such flats and creek as shall be converted into meadow ground for the same in the like proportions as they shall be rated and assessed for their other meadows in the same district; and that the said managers, out of the public stocks of their respective companies, shall from thenceforth uphold and repair the aforesaid dam and defray the expenses thereof

in the same proportions as their respective districts shall by the directions of this act have contributed towards the making and erecting the said dam.

[Section VI.] And be it further enacted by the authority aforesaid, That if any person or persons shall wickedly and maliciously cut through or break down or damage the aforesaid dam so as to annoy or overflow the said meadows and shall thereof be convicted before the justices of the county court of general quarter sessions of the peace of the said county of Philadelphia, the person or persons so offending shall be fined treble the value of 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 divided between the said respective companies of Wicaco and Moyamensing Meadows in the proportions aforesaid and their respective dividends added to their common stocks.

And whereas the keeping open the drains of the said meadow lands in both districts is of great importance to the said owners:

[Section VII.] Be it enacted by the authority aforesaid, That the managers of either district, or a majority of them, are empowered and hereby required immediately to open and from time to time to scour and cleanse the great canal or drain leading down Little Hollander's creek to the trunks or sluices intended to be laid in the dam to be erected for stopping the said creek when and as often as a majority of the managers of either of the said districts may judge necessary and convenient, and they are likewise empowered to demand and recover of the managers of the other district for their proportion of the expense thereof as well for the maintaining and supporting of the aforesaid dam and sluices as all other joint and common expenses that may hereafter accrue.

[Section VIII.] And be it further enacted by the authority aforesaid, That all and every of the owners in either district shall be allowed, permitted and suffered to discharge all or any of the waters off their respective lands through their natural channels or by a direct course across the land of any other of the said owners 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 main creek, and shall be allowed to open, scour and cleanse the same when and as often as they and the said managers shall think convenient or necessary, any law, usage or custom to the contrary in any wise notwithstanding.

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

[Section IX.] And be it further enacted by the authority aforesaid, That the drain to be made in the middle of the said Hollander's creek shall be the division line between the said districts of Wicaco and Moyamensing Meadows, and that all other boundaries of the said two several districts shall remain as the same are described and settled by the aforesaid two acts of general assembly.

Provided always, That nothing herein contained shall be deemed or construed to alter any clause, matter or thing whatsoever in the aforesaid two several recited acts of general assembly contained, save such parts thereof as by this act are expressly altered, contradicted or supplied.

Passed February 18, 1769. Referred for consideration by the King in Council, February 26, 1770, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXVII, Section I, and the notes to the Acts of Assembly passed February 21, 1762, Chapter 473; February 21, 1767, Chapter 549; and the Acts of Assembly passed March 22, 1784, Chapter 1085; March 13, 1839, P. L. 85.