

more easy recovery of legacies,"<sup>1</sup> shall be and is hereby declared to be repealed.

Provided always, That nothing in this act contained shall be deemed, taken or construed to discontinue any suit or suits depending at and before the publication of this act, but that every such suit or suits may be prosecuted notwithstanding the repeal of the said recited act in the same manner as they would have been prosecuted had the said law not been hereby repealed but continued during the time of prosecuting to effect such suit or suits.

[Section V.] And be it 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 session of assembly and no longer.

Passed March 21, 1772. Referred for consideration by the King in Council, January 15, 1773, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXX, and the Acts of Assembly passed October 9, 1779, Chapter 863; February 24, 1834, P. L. 70.

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## CHAPTER DCLV.

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AN ACT TO ENABLE THE OWNERS AND POSSESSORS OF A CERTAIN TRACT OF MEADOW LAND SITUATE IN THE BOROUGH OF CHESTER, IN THE COUNTY OF CHESTER, TO KEEP THEIR DAMS, BANKS, SLUICES AND FLOODGATES IN GOOD REPAIR.

Whereas the embanking and draining of swamps and marshy lands and converting the same into meadow renders it valuable and advantageous to the owners thereof and tends to promote the trade and commerce of this province, and as disputes and controversies frequently happen amongst the owners of drained meadow ground, occasioned by default in some of them to support their just and equal proportions of the dams, banks, sluices and floodgates, nor can they be compelled thereto without the aid of the legislature:

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<sup>1</sup> Passed September 20, 1765, Chapter 529.

And whereas there is a certain piece or parcel of drained marsh meadow ground situate in the borough of Chester in the county of Chester, fronting the river Delaware, on the west-erly side of Ridley Creek, comprehended within the following bounds and limits, That is to say, Beginning at the fast land of James Mather in the line between the said Mather and Joseph Hoskins, thence extending along the same to the river Delaware, thence up the said river to Ridley Creek, thence up the said creek the several courses thereof to the fast land in the line between Robert Pennell and Joseph Ashbridge, and from thence by the fast land of the said Robert Pennell, Mary Norris and James Mather to the place of beginning, which for a considerable time past has been embanked but of late has been greatly impaired and out of order for want of proper management and regulation:

[Section I.] Therefore be it enacted by the Honorable Richard Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and John Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, 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 bank surrounding and inclosing the said piece or parcel of meadow ground be and is hereby divided into five different districts and allotments in manner following, That is to say, from the fast land in the line between James Mather and Joseph Hoskins along the said bank and over a sluice to the line dividing between the said Mather and James Claxton shall belong to the said James Mather, and shall be deemed and taken and shall be in full of his district and allotment of bank belonging to the meadow now held and occupied by him; thence along the said bank and over a sluice to the line between James Claxton and Henry Hale Graham, shall belong to the said James Claxton and shall be deemed and taken and shall be in full of his district and allotment of bank belonging to the meadow now held and occupied by him; thence on the said bank and over a sluice to the line between the said Henry Hale Graham and Mary Norris, shall belong to the said Henry Hale Graham and shall be deemed and taken and shall be in full of his district

and allotment of bank belonging to the meadow now held and occupied by him; thence on the said bank and over a sluice to the line between the said Mary Norris and Robert Pennell, shall belong to the said Mary Norris and shall be deemed and taken and shall be in full of her district and allotment of bank belonging to the meadow now held and occupied by her; thence on the said bank and over a sluice to the fast land in the line between the said Robert Pennell and Joseph Ashbridge, shall belong to the said Robert Pennell and shall be deemed and taken and shall be in full of his district and allotment of bank belonging to the meadow now held and occupied by him.

[Section II.] And be it enacted by the authority aforesaid, That the owners, occupiers or possessors of the said piece or parcel of meadow shall be henceforth called and named "The Chester Company," and that they or as many of them as shall think fit shall and may meet on the first Monday in April yearly hereafter at the court-house in the borough of Chester, and by a majority of votes by way of ballot choose each year out of the owners or possessors of the said meadow one fit person to be a manager for the ensuing year.

[Section III.] And be it enacted by the authority aforesaid, That the owners, occupiers or possessors of the aforesaid districts and allotments whose banks, dams, sluices or floodgates are in any wise defective shall within one month after the passing of this act repair and amend all the breaches that now are in their respective allotments, and within four months from and after the publication hereof cause them to be put in good and substantial repair, and make up or cause their respective allotments and districts of banks in the said meadow to be made level on the top and sufficiently tight, strong and secure to defend their respective meadows from all inundations, for which end the said banks and dams shall be kept at least six inches above the highest tides, and that the said owners, occupiers or possessors shall from time to time forever hereafter cause the said banks, dams, sluices and floodgates in their respective districts or allotments aforesaid to be constantly kept in the like good order. And the said manager for the time being in every year is hereby authorized, empowered and required to inspect

at least four times a year the condition of every of the said banks, dams, sluices and floodgates and other conveniences for stopping out the tides or draining the water from said meadows; and if any shall appear unfinished, damaged, decayed or destroyed, or shall be otherwise insufficient for the purposes aforesaid, he, the said manager, shall consider and determine by what methods such part or parts may be made good and secure, and the said manager shall give notice to the owner, occupier or possessor of the allotment in which such defect shall happen to be, and require him, her or them forthwith to make or amend the banks, dams, sluices and other conveniences within his, her or their allotment in such manner as the said manager shall think fit and necessary for the security aforesaid.

[Section IV.] And be it enacted by the authority aforesaid, That if at any time hereafter any owner, occupier or possessor of any of the allotments aforesaid so warned by the said manager for the time being shall refuse or neglect after such warning to make, amend or repair his, her or their respective parts agreeable to the direction of the said manager, or if any of the said owners, occupiers or possessors are not to be readily found 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 manager, together with such workmen, horses, carts, barrows and tools as he shall think fit, to enter into and upon the said land of him, her or them where such defect shall happen, and then and there with the least damage to dig and carry earth or mud and purchase suitable materials to make, amend and repair the said banks, dams, sluices and floodgates and all other conveniences necessary for stopping out all tides, or for draining the waters off the meadows in such manner and by such ways and means as he shall think fit and reasonable, any law, usage or custom of this province to the contrary in any wise notwithstanding. And he the said manager shall adjust and settle the expense thereof, and shall also deliver to the owner, occupier or possessor of the allotment on which the said repairs shall be made, if he, she or they can be found as aforesaid, a bill of the charge of repairing the said banks, dams, sluices and conveniences and shall demand payment thereof accordingly, and in

case he, she or they shall neglect, refuse or delay to pay the same by the space of twenty days next after demand as aforesaid it shall and may be lawful to and for the said manager in his own name to sue all and every such person and persons so neglecting, refusing, or delaying payment as aforesaid by action of debt if five pounds or under before any one justice of the peace of the county aforesaid, and if above five pounds in any of His Majesty's courts of common pleas within this province, and give this act and the said account in evidence, and the said justice of the peace and the said court, respectively, are hereby empowered to give judgment and grant execution for the same, with costs of suit accordingly, to be levied on the piece of meadow belonging to such owner or owners, so neglecting or refusing, and deliver the same to the said manager, who is hereby empowered and authorized to let out on rent any part of the said meadow ground belonging as aforesaid to any such owner or owners so neglecting or refusing or not to be found, from year to year or for long time as the rent arising therefrom shall, as near as may be computed, pay all such sum or sums of money so charged thereon, together with the costs of suit aforesaid, and no longer.

Provided always, That in the letting out the said meadow the said manager do publicly notify the leasing thereof and let the same to the highest bidder.

[Section V.] And be it further enacted by the authority aforesaid, That no process, suits or proceedings whatsoever which at any time shall be commenced, sued or brought before any justice of the peace, judges of the common pleas or supreme court in the name of the said managers shall be discontinued or put without day by reason of the death, disability or removal of such manager, but shall stand good and effectual in law to all intents and purposes notwithstanding such death, disability or removal.

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

[Section VI.] Be it therefore 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 respective allotments, or by a direct course over and across the land of any of the other owners as shall by the manager for the time being be judged convenient and best suiting to discharge the same either into the river Delaware or into Ridley Creek, and shall be admitted and suffered to open, scour and cleanse the same when and as often as they and the manager shall think necessary and convenient, any law, usage or custom 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 and floodgates or other conveniences as shall be settled by the manager for the time being to be his, her or their part within any allotment.

[Section VII.] And it is hereby enacted by the authority aforesaid, That if by any general overflowing of the water hereafter the banks, dams or sluices belonging to owners of any one district shall be damaged or destroyed by the force of the water from within by defects in the banks or dams belonging to the owners of other districts, in all such cases the delinquent owners shall pay all the costs of repairs, unless the manager for the time being shall from any circumstances consider it as an act of providence.

[Section VIII.] And be it enacted by the authority aforesaid, That if the manager for the time being shall during the continuance of his office suffer his banks, dams, sluices or floodgates in his allotment to be so defective and out of repair, or shall do or omit any other act, matter or thing by which any of his neighbors shall sustain any damage, he shall be liable to make such satisfaction to the party injured as shall be assessed by two or more indifferent persons to be appointed by the court of quarter sessions for the county of Chester to value the same, which they are hereby authorized and empowered to appoint, on the petition of the injured party.

Passed March 21, 1772. Referred for consideration by the King in Council, January 15, 1773, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXX.

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CHAPTER DCLVI.

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AN ACT FOR THE SUPPORT OF THE GOVERNMENT OF THIS PROVINCE, MAKING THE EXCISE ON WINE, RUM, BRANDY AND OTHER SPIRITS MORE EQUAL, AND PREVENTING FRAUDS IN THE COLLECTING AND PAYING THE SAID EXCISE.

Whereas it would be extremely distressing to the people of this province, laboring under a heavy burden of taxes for sinking the bills of credit emitted during the last war and granted to His Majesty for the protection of His American dominions, to impose on them an additional rate or tax to be immediately levied on their real and personal estates:

And whereas it is necessary to raise a sum of money for supporting the honor of government, discharging its debts and incidental expenses and preserving the public credit, we the representatives of the freemen of the said province do therefore pray that it may be enacted:

[Section I.] And be it enacted by the Honorable Richard Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and John Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, 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 bills of credit to the value of twenty-five thousand pounds shall be prepared and printed within two months next after the passing of this act, on good strong paper, under the care and direction of Joseph Fox, Michael Hillegas, William Rodman and Isaac Pearson, Esquires, or any three of them, the charges whereof shall be paid by the provincial treasurer out of the moneys arising or to arise by the excise on spirituous liquors directed to be levied and paid in virtue of this act, which bills