

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.

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## CHAPTER CCCCLV.

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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

benefit to the public. And whereas there is a certain island or neck of marsh, meadow and cripple land surrounded by Delaware river, Hollander's and Hay creeks in the townships of Moyamensing and Passyunk, in the county of Philadelphia, named and henceforth to be called Greenwich Island, which island is partly drained and partly open to the overflowing of the tide, the several owners of which propose by banks, dams, sluices and flood-gates near the outside thereof the whole completely to embank and drain; but forasmuch as such improvements are from their own nature subject to many casualties and without constant care and expense not only liable to decay, but the defect of one part is often destructive and ruinous to many, and amongst a number of owners such frequent disputes arise concerning repairs or concerning the means of defraying the necessary expense thereof, that often-times from little neglects great damages ensue, and the heavy charge of many owners rendered ineffectual through the default of a few; to prevent which damages and inconveniences and for the security and encouragement of of the said owners and undertakers of this improvement, they pray that it may be enacted:

[Section I.] And 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 Joseph Fox, John Hughes, Hugh Roberts, Philip Syng, Matthew Johns, Jacob Lewis and Jacob Cooper are hereby nominated and appointed, authorized and empowered, within two months after the publication of this act to form and divide the said tract of marsh, meadow and cripple into so many allotments, districts or divisions as they [or a majority of them] shall think just and reasonable, having an equitable regard to the particular situation, circumstances and conveniences of the several and respective owners and possessors thereof; which said allotments, districts or divisions so made and signified by any deed or instrument in writing under the hands and seals of any

four of them, shall be deemed, taken and held by the owners and possessors of the said island, and every of them, and they are hereby declared to be so many separate and distinct districts and to remain independent of each other forever as to the supporting, amending or repairing the dams, banks, sluices, flood-gates and drains hereinafter-directed to be made.

[Section II.] And be it enacted by the authority aforesaid, That the owner or owners, possessor or possessors of every of the said respective districts so to be made of the said marsh, meadow or cripple land lying on or adjoining to the said river Delaware, the said Hollander's creek, or Hay creek, on the said island, not already embanked, shall, under the penalty of ten shillings for each acre to be paid to the treasurer and added to the common stock, within two months from the publication hereof, make or cause to be made a good and sufficient bank across the whole front of all his, her or their lands respectively lying on the said river Delaware, the said Hollander's and Hay creeks, as shall be equally good and sufficient for all the purposes of such banks with any of those already made on the said island, and that all the waters of all and every of the creeks flowing into or upon the said island shall, within the said term of two months, be effectually dammed and stopped out by dams made or to be made at or near the mouths of each and every of the said creeks; that sluices and flood-gates shall be placed to such and so many of the said creeks as shall be sufficient to drain off all the waters that shall hereafter pass through the channels of the same; and that the charges and costs of supporting, maintaining and amending the banks, dams, sluices, flood-gates and drains made or hereafter to be made according to the direction of this act, shall be paid by the owners or possessors of the lands in each district in proportion to the number of acres held by each owner or possessor thereby drained in such district.

So always and provided, That all owners of inland parts shall pay their proportion towards all banks [dams], sluices, flood-gates and drains by which their respective lands are drained as aforesaid,

[Section III.] And be it enacted by the authority aforesaid, That all and every of the said owners or possessors of the said

marsh, meadow or cripple land lying on the said island for the time being or at any time or times hereafter or so many of them as shall think fit, may meet and assemble yearly and every year after the publication of this act on the first Monday in July, at the court-house in Philadelphia, or such other convenient place as shall hereafter be appointed by the managers, and then and there by a majority of those met shall choose by ballot five fit persons, owners or possessors of land on the said island, to be managers and one fit person to be treasurer for the year then next ensuing.

[Section IV.] And be it enacted by the authority aforesaid, That if any of the said owners elected managers as aforesaid shall on due notice in writing given him or them of his or their respective election, refuse, or shall afterwards neglect to do the duty required of him or them by this act, he or they so refusing or neglecting shall severally forfeit and pay to the treasurer for the time being the sum of three pounds, to be added to the common stock of the said island, unless he shall have already served three years successively in the said office, which fine shall be recovered in manner hereinafter directed for the recovery of other moneys payable to the treasurer of the said island, and the other managers shall proceed in their duty without him or them so refusing or neglecting, or if they think fit may choose other of the owners to supply the places of such owners so refusing or neglecting as aforesaid until the next ensuing election; and if any person hereafter elected treasurer shall refuse or neglect to take upon him the duties or give the securities hereby required or shall afterwards misbehave himself or be rendered incapable of the duties of the said office, in either of these cases the managers for the time being shall choose another fit person, not a manager, to be the treasurer till the next ensuing election.

[Section V.] And be it enacted by the authority aforesaid, That every treasurer hereafter chosen shall, before he take upon himself the execution of his office, enter into an obligation with one sufficient surety in double the value that doth or probably may 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 three months, or oftener, if required, render his ac-

counts to the said managers and well and truly account and settle with them if required for and concerning all moneys that are or shall come into his hands by virtue of this act or belonging to the owners of the said island, and pay the balance that shall appear on such settlements to be in his hands unto such person or persons or 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 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 owners of the said island unto his successor in the said office, and that he will do and execute all other things as treasurer to the said owners according to the true sense and meaning of this act.

And the said managers for the time being in every year are hereby empowered, authorized and required to enter upon and 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 tide or draining of the water off the said island in each respective district so to be made, and if any of them, or any part of them, shall appear undone, unfinished, damaged, decayed, washed away, destroyed or more liable from situation, nature of soil or other circumstance to be washed away or destroyed than other parts in general, already made or shall be any otherwise insufficient for the purposes aforesaid, they, the said managers, shall consider and determine by what method such part or parts may be made equally safe, good, secure and sufficient with other parts thereof the most secure, having due regard to such places as are most exposed to hard gales of wind and an high surf, the banks and dams there requiring to be widened or guarded with stone work, and on such inspection and determination the said managers shall give notice to and require the said owners or possessors or their guardians (if minors), if within the county of Philadelphia, forthwith to make or amend their and each of their several and respective banks, dams, sluices, flood-gates and other conveniences in such manner as they, the said managers, shall think fit and necessary,

all of which banks shall be [of] sufficient breadth and at least six inches above any tide that has been known.

[Section VI.] And be it enacted by the authority aforesaid, That if at any time hereafter any of the said owners or possessors of any district of the said lands on the said island, or any guardian of minor owners of land therein, 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 in the permises agreeable to the directions of the said managers, or if any of the said owners or such guardians are not to be 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 and premises of him, her or them so neglecting or refusing or not to be found in the said county, and then and there to make or cause to be made, amend and repair the said banks, dams, sluices, flood-gates or all or any other conveniences necessary for stopping out the tide or draining of the waters off the same 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 anywise notwithstanding; and that they, the said managers, or any three of them, shall adjust and settle the expense thereof amongst the respective owners of such district in which the repairs shall be so made in manner aforesaid and as they shall think just and reasonable and shall deliver to the possessors, owners or their guardians (of minors) of such district if to be found as aforesaid, their respective bills of the charge or proportion of the charge of the said banks, dams, sluices, flood-gates or drains so made or repaired, 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 public stock 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 so that such contracts shall not interfere with or retard the general improvement or security hereby intended.

And in order to establish a fund to defray sundry contingent and yearly expenses and to prevent any delay hereafter for want of ready 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 each of the said districts aforesaid shall on or before the first Monday of [September] 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 two shillings current money of Pennsylvania for each and every acre of land they respectively have, hold, occupy or possess in such district, exclusive of creeks, flats or waste lands; and all and every person, or persons, whether owners or renters, who shall on the first Monday in [September] in every year hereafter be in possession of land on the said island shall in like manner pay 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 sums of money if paid by the said renter, he, the said renter, [shall and] is hereby empowered to deduct out of his rent.

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 moneys 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, distinct and separate account for each district 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 not otherwise.

[Section VIII.] And it is hereby further enacted by the authority aforesaid, That the managers for the time being shall, before the days herein appointed for payment of the yearly

quotas, deposit money or assessment, cause true lists of the names of all and every of the said owners or possessors of the respective districts aforesaid, with a true account of all and every acre of land in each district respectively which they have, hold or possess, exclusive of creeks, flats or 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 true copies thereof, together with the sum per acre of the general assessment for the current year when any alterations shall be made in the above-mentioned sum of two shillings; according to which lists or accounts the said 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 virtue of this act, and shall cause due and public notice of the said rate or assessment per acre to be given to the owners of the several districts aforesaid at least twenty days before the day of payment in every year hereafter.

And in case any of the said owners 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 in case of neglect or refusal 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 when they respectively ought to have paid by direction of this act.

[Section IX.] And it is hereby 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, together with the forfeiture arising thereon, which they respectively ought to pay at the time or times hereafter for the



space of twelve months, after any of the days or times in which it ought to have been paid agreeable to the direction and true intent and meaning of this act, or shall have neglected or refused to make, amend or repair his, her or their bank, dam, sluice, flood-gate and drain or any of them or any part which they, the said owners or possessors ought to have done, agreeable to the directions of this act, or shall have refused or neglected to reimburse the treasurer for the time being the necessary expense thereof agreeable to the directions of this act, that then and thereafter 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 and persons so refusing and neglecting for the respective sum or sums which he, she or they ought to have paid by virtue hereof, by action of debt of 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 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 execution for the same, with costs of suit accordingly, to be levied on the tract or piece of marsh, meadow or cripple belonging as aforesaid to such owner or owners so neglecting or refusing, and delivered unto the managers for the time being, who are hereby empowered and authorized to let out on rent any part of the said marsh, meadow or cripple land belonging as aforesaid 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 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 marsh, [meadow] or cripple land the said managers do publicly notify the leasing thereof and let the same to the highest bidder at private sale.

[Section X.] And it is hereby enacted by the authority afore-

said, 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, which had been admitted 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 managers for the time being shall from any circumstances consider it as an act of Providence, in which case they may repair it at the general expense of all the owners of the said island and order the treasurer to pay the charge thereof.

[Section XI.] And be it 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 appointing a person or persons from time to time to enter upon and inspect the condition of all banks, dams, sluices and flood-gates near the outside of the island, and informing the respective owners or the said managers when any repairs are wanting, and may displace such person 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 for any other general service of the said island.

[Section XII.] And be it further enacted by the authority aforesaid, That the said managers are hereby authorized and empowered in behalf of the said owners, 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 or 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.

[Section XIII.] 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 Greenwich Island 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 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 good and effectual in the law.

[Section XIV.] 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, judges of the common pleas or supreme court in the name of any treasurer of the said island 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.

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

[Section XV.] Be it enacted by the authority aforesaid, That all and every of the said owners shall be allowed, permitted and suffered to discharge all or any of the waters of 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 river or into the said Hollander's or Hay creek, and shall be allowed, permitted and suffered to

open, scour and cleanse the same when and as often as they or 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 his water shall first pay all the damages sustained or to be sustained by such neighbor through whose land the water is to be discharged, and also such proportion of the charge of banks, sluices, dams and flood-gates as shall be settled by the said managers.

[Section XVI.] And be it enacted by the authority aforesaid, That if any person or persons shall wickedly and maliciously cut through or break down or damage any of the said banks, sluices, dams or flood-gates, either their own or others, or shall let in any creek or water to annoy, injure or overflow any of their neighbor's lands and shall thereof be convicted before the justices of the county court of quarter sessions of the said county of Philadelphia, in all such cases the person 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 added to the common stock for the general use and benefit of the owners of the said island.

And whereas several of the said owners who have land on and near the western end of the said island have purchased and left out ground for a public road through a considerable part thereof, and have agreed to continue the same through the lands late of James Lownes, across Hollander's creek, near the plantation of Joseph Turner, Esquire, into the main road of Moyamensing township, and have agreed to advance money for clearing and regulating the same and for erecting a substantial good bridge across the said Hollander's creek for the common use and benefit of themselves and others of the said owners, who may hereafter be accommodated thereby; and lest any dispute should hereafter subsist concerning the use of the said road or bridge or concerning the part, share or proportion of the sum or sums of money which they, the said owners or any of them, may hereafter be required to pay towards the expense of making the said road or the said bridge or towards the necessary repairs of them

or either of them, whereby the undertakers may suffer or some of the said owners be debarred the use and conveniency of the said road or bridge.

[Section XVII.] Be it enacted by the authority aforesaid, That all such disputes, if any shall hereafter arise, shall be settled by the managers aforesaid, and all accounts and demands relating to the disbursements and expense of the said road and bridge or to the repair thereof shall be adjusted by them, the said managers, so that every owner, occupier or possessor who shall have occasion so to do shall, without interruption, use the same or any part thereof, and shall pay in proportion to the number of acres they respectively have accommodated by the said bridge and road, or any part of the said road.

[Section XVIII.] Provided always, and it is hereby enacted by the authority aforesaid, That if any of the said managers shall be immediately interested or concerned in such dispute, some other person or persons fit and disinterested in the case, if the parties require it, shall be chosen as aforesaid by the other managers and by the parties concerned instead of such interested manager or managers, who shall finally settle and adjust the same.

[Section XIX.] And be it further enacted by the authority aforesaid, That all accounts and charges for making the said road or bridge or for repairs of the said road or bridge so settled and adjusted shall be paid by the respective owners on demand, and in case of failure the treasurer for the time being shall have full power and authority to recover the same in manner hereinbefore directed for the recovery of the yearly payments aforesaid.

Provided always, That nothing herein contained shall be deemed or construed to lessen the duty of overseers of roads and highways or of other inhabitants of the said townships of Passyunk or Moyamensing from giving their assistance from time to time as occasion may require to amend so much of the said road as may now or hereafter be recorded as a public road of their respective townships according to the laws and customs of this province. 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 on the said island or some other 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 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 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; February 21, 1767, Chapter 558; March 22, 1784, Chapter 1085; January 30, 1804, P. L. 29; March 13, 1839, P. L. 85; April 12, 1853, P. L. 369.

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## CHAPTER CCCCLVI.

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AN ACT TO PREVENT THE HUNTING OF DEER AND OTHER WILD BEASTS BEYOND THE LIMITS OF THE LANDS PURCHASED OF THE INDIANS BY THE PROPRIETARIES OF THIS PROVINCE AND AGAINST KILLING DEER OUT OF SEASON.

Whereas many disorderly people have made it a practice of hunting on the lands not yet purchased of the Indians, to their great damage and dissatisfaction, which may be attended with fatal consequences to the peace and welfare of this province by destroying that union and harmony which this government [has] lately restored and concluded with the Indians at a very great expense. And whereas many of the industrious inhabitants on the frontiers of this province are thereby discouraged from returning and settling upon the plantations which they were obliged to leave and evacuate during the [late] Indian incursions; therefore, to remedy the great mischiefs which may ensue from the continuance of this evil practice:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas