

standing, and to invest the moneys arising by the sale thereof, together with such other moneys as are or may be in their hands, in defraying the debts and charges heretofore contracted and repaying the sums of money borrowed by virtue of the hereinbefore mentioned acts of assembly, or either of them, and the surplus, if any, shall be paid into the hands of the provincial treasurer, to be applied towards building a pier or piers within the river Delaware, provided the merchants, traders or others, or some of them, do, within eighteen months after the passing of this act, begin and proceed in erecting and building such pier or piers within the said river for the defense and security of ships and vessels from the dangers of ice, storms or other accidents attending or obstructing the navigation to and from the city of Philadelphia, or on failure thereof within the time limited as aforesaid, then to be applied towards sinking the sums of money heretofore granted to the King's use.

Passed March 14, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the note to the Act of Assembly passed April 21, 1759, Chapter 440; and the Act of Assembly passed February 17, 1762, Chapter 476.

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## CHAPTER CCCCLXII.

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AN ACT TO ENABLE THE OWNERS AND POSSESSORS OF THE MEADOW AT THE WEST SIDE OF THE MOUTH OF DARBY CREEK, BY THE RIVER DELAWARE, IN THE TOWNSHIP OF RIDLEY, IN CHESTER COUNTY, TO KEEP THE BANKS, DAMS, SLUICES AND FLOOD-GATES IN REPAIR FOREVER AND TO RAISE A FUND TO DEFRAY THE EXPENSE THEREOF.

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 a default in some of them to support their just and equal proportions of the banks, dams,

sluices, flood-gates and drains that are necessary for draining the same, nor can they be compelled to contribute a proportionable [part] of the charge that may from time to time be incurred by such repairs without the aid of the Legislature:

[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 Darby Creek Meadows, fronting the river Delaware, in the township of Ridley, in the county of Chester, bounded on the west by Crum creek, and on the east by Darby and Stone creeks, and on the north by the fast land, is hereby divided into two equal parts as followeth: That is to say, from the eastern line dividing the meadows of John Morton from the meadows of John Knowles and Israel Hendrickson and extending to Darby and Stone creeks, shall be henceforth called and named "The Eastern Moiety," and from the aforesaid line to Crum creek shall be called and named "The Western Moiety;" and for the better upholding the banks, dams, sluices and flood-gates in the said Eastern Moiety:

[Section II.] It is hereby declared and enacted, That the dams, sluices and flood-gates in the said moiety now erected or hereafter to be erected shall be deemed to be one district and allotment, and shall hereafter be erected, supported and maintained at the costs and charges of all the owners, occupiers and possessors of meadow ground in the said Eastern Moiety in proportion to the quantity of meadow land they each respectively hold inclosed within the banks; and that the bank inclosing the said Eastern Moiety is hereby divided into three different districts and allotments in manner following: That is to say, from the fast land near the house of Swan Culin, fifty-six perches of the said bank, exclusive of one dam and a sluice bank to a post, shall belong to Daniel Culin, Swan, George and Samuel Culin, the heirs of George Culin, deceased, and thence of the said

bank twenty-seven perches to another post by a small sluice, shall belong to John Morton; thence of the said bank fourteen perches from the said sluice to a post by another sluice, shall be and belong to Morton Morton, Lawrence Garret and Thomas Smith, and thence on the said bank eighteen perches to another post shall belong to Daniel Culin, Swan, George and Samuel Culin, the heirs of George Culin, deceased, which, together with the bank to them before allotted shall be deemed and taken and shall be in full of their district and allotment of bank belonging to the meadows now held and occupied by them, thence on the said bank, exclusive of two sluices, and one dam, fifty perches to a post in the line of John Morton's meadow, shall belong to Morton Morton, Lawrence Garret and Thomas Smith, which, together with what is before to them allotted shall be deemed and taken and shall be in full of their district and allotment of bank belonging to the meadows now held and enjoyed by them; and thence crossing the meadow of John Morton of the said bank twenty-five perches, excluding one dam to the line of John Knowles and Israel Hendrickson's meadow shall belong to John Morton, and, together with what is before to him allotted, shall be deemed and taken and shall be in full of his district of bank belonging to the meadow ground now held and enjoyed by him in the said Eastern Moiety.

[Section III.] And be it enacted by the authority aforesaid, That William Parker, Esquire, Isaac Pearson and John Lewis are hereby nominated and appointed, authorized and empowered, within one month after the passing of this act, to form, divide, allot and assign all the banks, dams, sluices and flood-gates in the aforesaid Western Moiety of the said meadows between the owners thereof into so many allotments, districts and 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 owners and possessors, which said allotments, districts or divisions so made and assigned to the respective owners by a deed or instrument in writing under the hands and seals of any two of them, and recorded in the office for recording of deeds for the county of Chester, shall be deemed, taken and held by the owners and pos-

sessors of the said moiety and every of them, and they are hereby declared to be so many separate and distinct districts, and to remain to such person or persons as the same shall be allotted and assigned independent of each other forever as to supporting, amending or repairing the banks, dams, sluices, flood-gates and drains hereinafter to be made.

[Section IV.] And be it further enacted by the authority aforesaid, That the owners of the said tract of meadow shall be henceforth called and named "The Ridley Company," and that they, or as many of them as shall think fit, shall and may meet on the first Monday in April next and on the first Monday in May, yearly, hereafter, at the school-house in said township, or at such other place as shall be thought more convenient to said meadow, to be appointed by the said managers hereafter to be chosen, and by a majority of votes by way of ballot, choose each year out of the owners or possessors of said meadow three fit persons to be managers and one fit person to be treasurer for the whole company for the ensuing year, of which said meetings the managers hereafter chosen shall yearly give ten days' notice by advertisement.

[Section V.] 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 being given 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 or their duty as a manager shall forfeit and pay to the treasurer for the time being, to be appointed as afore-mentioned, the sum of forty shillings, to be added to the common stock of the said Ridley Company, unless he shall have served two years successively in the said office next before his said appointment, 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 proper, may choose other of said owners or possessors as manager or managers in the place of him or them refusing or neglecting as aforesaid.

[Section VI.] And be it further enacted by the authority

aforesaid, That every treasurer hereafter to be chosen for the said Ridley Company shall, before he takes 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 be like to come into his hands during the continuance of this act, as near as can be estimated, to the highest in vote of the managers, conditioned that he will, once in every year 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 belonging to the said Ridley Company, and shall and will well and truly pay the balance that shall appear on such settlement to be in his hands or any parts thereof unto such person or persons from time to time and for such services as any two of said 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 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 Ridley 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 VII.] And be it enacted by the authority aforesaid, That the owners, occupiers or possessors of the aforesaid allotments or districts whose banks, dams, sluices or flood-gates 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 bank and dams in the said meadows to be made level on the top and sufficiently light, 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 when each and every of the owner and owners within their respective allotments shall have made up and defended his, her 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 said allotment have done, all future charges of said banks, dams and sluices 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, as 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 said banks, dams, sluices, flood-gates and other conveniences necessary for stopping out the tides or draining the waters from said meadows, and if any shall appear unfinished, damaged, decayed or destroyed or shall be otherwise 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 Chester, whose duty it shall appear to the said managers to be, to require him or them forthwith to make or mend the banks, dams, sluices and other conveniences within their respective allotments in such manner as they, the said managers, shall think fit and necessary for the security aforesaid.

[Section VIII.] 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, or a majority of them, shall think fit, to enter into and upon the said land of him, her, them or any of 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, flood-gates and all other conveniences necessary for stopping out all tides or for draining the waters of the meadows 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 two of them, shall adjust and settle the expense thereof among the owners of the respective allotments in proportion and according to the number of acres each person, owner or possessor holds inclosed within the said banks, as they shall think just and reasonable; 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 and conveniences as aforesaid and shall order payment accordingly; and in case of their, or any of their, neglect, 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 and 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 conveniency within his respective allotment, such part of the said expense as shall be certified

under the hands of the managers, or a majority of them, to be just and reasonable for the other owners, occupiers or possessors 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 have so made the same.

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

[Section IX.] Be it enacted by the authority aforesaid, That every owner or possessor of land in the aforesaid meadow tract shall, on or before the first Monday in June after the publication of this act, pay 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 first Monday in June in every year hereafter, be owner, occupier or possessor of meadow land in said tract shall, in like manner, pay or deposit, or cause to be paid or deposited, in [to] the hands of the treasurer, on the first Monday in June in every year, the sum of six pence of like money aforesaid 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 ten pounds shall 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 yearly pay and deposit such sum or sums of money on the first Monday in June in each year as the managers [for the time] being shall find necessary to assess in manner aforesaid; so always provided, that there does not remain above ten pounds in the hands of the treasurer in the beginning of each year, ready to be applied as aforesaid; 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 treasurer shall, in books for that purpose provided, 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, or a majority of them, for the time being, and not otherwise.

[Section X.] 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 to be made out, with a true account of all and every acre of land in each district respectively which they have, hold or possess, 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, 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; 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 treasurer the additional sum of two pence for every shilling not paid within six days after said time of payment aforesaid in which they respectively ought to have paid the same by the directions 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 have so failed of paying on the day or time when they respectively ought to have paid the same by the direction of this act.

[Section XI.] 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 any time or times hereafter for the space of six months after any of the days or times in which the same 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 or 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 directions from the said managers, or a majority of them, in his own name to sue all and every such person and person 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, 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 assessment or 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 meadow belonging to such owner or owners so neglecting or refusing, and deliver the same unto the managers as aforesaid for the time being, who are hereby empowered and authorized to let out on rent any part of the said meadow ground belonging as aforesaid to any of such owner or owners so neglecting or refusing or not to be found in the county 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 said meadow the said managers do publicly notify the leasing thereof and let the same to the highest bidder.

[Section XII.] And be it further enacted by the authority aforesaid, That the said managers for the time being, or a majority of them, shall have power of disposing of all moneys paid to the treasurer by virtue of this act for the uses aforesaid, 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 belonging to the said meadows and informing the said owners or 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 banks and for any other general service of the said meadows.

[Section XIII.] And be it further enacted by the authority aforesaid, That the said managers are hereby 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 proceedings or account of the said managers, such owner or owners shall choose two fit and disinterested persons, and the said managers, or a majority of them, shall choose two other fit and disinterested persons, who (or any three of them so chosen) shall finally settle the same and all other matters and things in dispute concerning said meadows.

[Section XIV.] And be it enacted by the authority aforesaid, That the order of any two 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 the receipts and discharges of such succeeding treasurer or treasurers for any sum or sums of money paid to him shall be good and effectual in law.

[Section XV.] And be it enacted by the authority aforesaid, That no process, suits or proceedings whatsoever which at any time shall be commenced, sued or brought before any justices

of the peace, judges of the common pleas or supreme court in the name of the said treasurer 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 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, dams, sluices or flood-gates, either their own or others, or shall let in any creek or water to annoy, injure or overflow any of the neighboring lands, and shall be thereof convicted before the justices of the court of quarter-sessions of the said county of Chester, in all such cases 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 added to the common stock for the general use and benefit of all the owners of the said meadows.

And for the better and more effectual draining of the aforesaid tract of meadow land:

[Section XVII.] Be it enacted by the authority aforesaid, That a drain at least six feet wide at the top and level at the bottom with the bottom of the sluices to which it leads shall, in three months after the publication hereof by each and every of the owners, occupiers or possessors respectively be dug and scoured across each of their pieces or tracts of meadow ground and by each of them always hereafter kept open and in good order from Stone Creek Sluice to Crum Creek Sluice where the same now is in part opened, and if any of the said owners, occupiers or possessors shall neglect or refuse on notice given them, or any of them, by the aforesaid managers for the time being to make, amend, scour or repair their or any of their parts respectively, it shall and may be lawful for the said managers or a majority of them to order any workmen to open, scour or amend the said drain, and they shall adjust and settle the price thereof and charge the owner or owners so refusing or neglecting with their respective parts of the same, and to order the treasurer

for the time being to make demand thereof; [and] if within six days after such demand they, or any of them so charged as aforesaid shall not pay the sum to them charged for said repairs so done, it shall and may be lawful for the treasurer for the time being to recover the same in the manner that other fines, forfeitures or charges of repairs are recoverable by this act, any law, custom or usage to the contrary in any wise notwithstanding.

Passed March 14, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Acts of Assembly passed February 15, 1762, Chapter 523; March 4, 1797, Chapter 1922; February 26, 1800, Chapter 2108; March 2, 1854, P. L. 139.

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## CHAPTER CCCCLXIII.

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### AN ACT FOR THE PRESERVATION OF FISH IN THE RIVERS DELAWARE, SUSQUAHANNA AND THE LEHIGH, COMMONLY CALLED THE WESTERN BRANCH OF DELAWARE.

Whereas it is found by experience that large quantities of the fry and brood of fish, as well as young fish unfit for use, have been for many years past killed and destroyed by weirs, racks, baskets, dams, pounds and other like engines and devices formed and erected in the rivers Delaware, Susquahanna and the Lehigh, commonly called the Western Branch of Delaware, for taking of larger fish, whereby the great quantities of fish which were formerly to be found and taken in the said rivers are much diminished, to the great damage and injury of the public; for remedy whereof:

[Section I.] 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