

Passed May 20, 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.

CHAPTER DLXIV.

AN ACT TO ENABLE THE OWNERS AND POSSESSORS OF LEAGUE ISLAND TO KEEP THE BANK, DAMS AND SLUICES IN GOOD REPAIR FOREVER AND TO RAISE A FUND TO DEFRAY THE EXPENSE THEREOF.

Whereas there is a certain tract of marsh or meadow ground within the county of Philadelphia and adjacent to Greenwich Island, called and known by the name of League Island, which the owners thereof have embanked and drained and made other improvements thereon; but forasmuch as such improvements are from their own nature and situation 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 among a number of owners such frequent disputes arise concerning repairs and the means of defraying the necessary expense thereof that oftentimes from little neglect great damages ensue and the heavy charges of many owners may be rendered ineffectual through the default of a few, to prevent which damages and inconveniences and for the security and encouragement 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 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 owner or owners of the marsh or meadow land [within] the island aforesaid, or so many of them as shall think fit, may meet and assemble on the first Monday

in June next, at some convenient place in the city of Philadelphia, and on the same day, in the same month, yearly, forever, and then and there, by a majority of those met, shall choose by tickets in writing three fit persons, owners or possessors of land [within] the said island, to be managers and one fit person to be treasurer for the year then next ensuing.

And in order to defray the necessary expenses of repairing the banks, walls, dams, sluices and floodgates and keeping the same in good repair:

[Section II.] Be it enacted by the authority aforesaid, That the said managers, or any two of them, shall lay a rate or assessment not exceeding twenty shillings per acre at any one time, and so from time to time as they shall see occasion, on all and every the owners and possessors of the said marsh or meadow land for what they shall respectively hold and possess [within] the island aforesaid, which rate or rates from time to time the said owners 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 that the said managers, or any two of them, as soon as may be after a sufficient sum of money shall be paid as aforesaid into the treasury shall employ a proper number of workmen and laborers for amending, repairing and walling the dams, bank, sluices and floodgates wherever the same may be necessary for the effectual stopping out the waters from the same.

[Section III.] And be it further enacted by the authority aforesaid, That the costs and charges of making, maintaining and amending the dams, walls, bank, sluices or floodgates made or hereafter to be made shall be paid by all the owners, occupiers or possessors of the land in the said island according to the number of acres that they and each of them shall hold, possess or occupy within the said bank, the same to be made, supported and amended in such manner as the managers for the said island or any two of them hereafter to be chosen shall direct.

[Section IV.] And be it further 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 said island, 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 treasurer of the said island, 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 to give the securities 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 for the time being shall choose another fit person (not a manager) to be treasurer for that year.

[Section V.] 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 with one or more sufficient securities in double the value of the money that doth or may probably 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 every three months, 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 or that belong to the owners of the land in the said island, and shall well and truly pay the balance that shall appear on such settlement to be in his hands 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 be-

longing to the owners of the said island 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 VI.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said managers, as often as they shall see occasion, to meet together and lay such assessments and taxes on every acre of land within the said bank as they shall judge to be necessary for the benefit and security of the same. And the said managers or any two of them 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 all the said banks, walls, dams, sluices, floodgates and other conveniences necessary for stopping out the tides or draining the water from the said meadows; and if any part shall appear damaged, decayed or destroyed or more liable by its situation, nature of the soil or other circumstances to be washed away or destroyed than other parts or shall be in any manner insufficient for the purposes aforesaid, they, the said managers, shall cause the same to be amended, repaired and secured and draw upon the treasurer for the cost thereof.

And whereas the said owners, in order to form the said bank and inclose the said island, did enter into certain articles of agreement and thereby appointed certain managers, giving them certain powers, who in pursuance thereof laid several assessments on the said owners for the purposes aforesaid, divers of which assessments have been paid and applied to the purposes aforesaid, but some parts thereof remain yet outstanding and unsatisfied:

[Section VII.] Therefore be it enacted by the authority aforesaid, That all such sum and sums of money so assessed and outstanding shall be paid to the said treasurer.

[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 by them appointed for the payment of the several 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, occupy and possess within the said bank 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 a true copy thereof, together with the sum per acre of the general assessment for the time being, according to which list or account the treasurer for the time being shall receive and take the several sums of their and each of their assessments respectively in every year raised or assessed by this act or which were heretofore assessed by virtue of the articles aforesaid and remain now outstanding and due, and shall cause public notice of the said rate or assessment per acre to be given at least ten days before the day of payment at all times hereafter. And in case any of the said owners, occupiers 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 which they respectively ought to pay [according] to the true intent and meaning of this act, 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 unpaid which they respectively ought to have paid by the direction of this act, and afterwards shall, for every two 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 have paid by the directions of this act.

[Section IX.] And be it further enacted by the authority aforesaid, That if any of the said owners or occupiers shall neglect or refuse as aforesaid to pay the several sums of money hereinbefore directed to be raised and paid, together with the forfeitures arising and hereby imposed which they respectively ought to pay at any time or times hereafter for the space of two months after any of the days or times in which it ought to be paid, agreeable to the direction of this act, that then and so often 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 or by virtue of the articles aforesaid by action of debt, if five pounds or under, before any justice of the peace for 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 in evidence, 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 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, or any two of them, are hereby empowered and authorized to let [out] on rent any part of the said meadow belonging to any of the said owners who shall so neglect or refuse or who shall not be found in the county as aforesaid from year to year 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 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 the said meadow the said managers do publicly notify the leasing thereof and let the same to the highest bidder.

[Section X.] And be it enacted by the authority aforesaid, That no process, suit or proceedings whatsoever which at any time hereafter shall be commenced, sued or brought before any of the justices of the peace or judges or justices of the common pleas or Supreme Court or before any magistrate of this province in the name of any treasurer of the said island by direction of the said managers, or any two of them, 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 the managers for the time being, or any two of them, shall have the power of disposing of all moneys paid to the treasurer by virtue of this act, and of hiring [and appointing], at the expense of the said company, any person or persons from time to time to inspect the condition of all the bank, walls, dams, sluices or floodgates belong[ing] to the owners of the said meadow land, and may displace such person or persons and appoint others as often as they shall think fit, and the said managers shall have the sole management and direction of the said bank, with power of fining the owners, possessors [or] occupiers of the said island whose cattle shall injure the said bank, any sum not exceeding five shillings for each offense, with power to offer and pay such rewards as they think necessary out of the common stock for the destruction of such vermin as usually damage the said bank and dams as well as for other general services of the said island.

[Section XII.] And be it further enacted by the authority aforesaid, That the said managers for the time being, or any two of them, are hereby authorized and empowered, in behalf of the said owners, to 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, account or proceeding of the said managers, such owner or owners shall, if he or they think proper, choose two fit and disinterested persons, and the said managers, or two of them, shall choose two other fit and disinterested persons, who, or any three of them, shall finally settle the same, and all other matters and things in dispute that shall be referred to them by the parties.

[Section XIII.] And be it further enacted by the authority aforesaid, That the orders 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 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 League Island and be payable to him and his successors 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 or successors 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 effectual in law.

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

[Section XIV.] Be it therefore 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] 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 sustained or 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 XV.] And be it enacted by the authority aforesaid, That if any person or persons shall wickedly and maliciously cut through and break down or endamage any of the said bank, walls, dams, sluices or floodgates, either their own or others, or shall let in any water to annoy, injure or overflow any of the neighbors' lands and shall thereof be convicted before the jus-

tices of the court of quarter sessions of the said county of Philadelphia, in all such cases the 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 island.

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CHAPTER DLXV.

AN ACT FOR RAISING BY WAY OF LOTTERY THE SUM OF FOUR HUNDRED AND NINETY-NINE POUNDS NINETEEN SHILLINGS, TO BE APPLIED TO THE PAYMENT OF THE ARREARS OF DEBT DUE FOR THE BUILDING AND FINISHING THE GERMAN LUTHERAN CHURCH IN EARL TOWNSHIP, IN LANCASTER COUNTY, AND TOWARDS THE ERECTING AND BUILDING A SCHOOL HOUSE TO THE SAME CHURCH.

Whereas it hath been represented to the assembly of this province by the church wardens and elders of the German Lutheran church lately built in Earl township that notwithstanding the subscriptions heretofore made towards raising a sum of money for the erecting and finishing the said church, there yet remains a considerable sum due for the work already done, and a further sum besides what has been hitherto raised by contributions among themselves will be wanted to complete the same and to erect a school house near the said church for the education of youth:

Wherefore we, the representatives of the freemen of the province of Pennsylvania, desirous of aiding and promoting such pious and charitable purposes, do pray that it may be enacted:

[Section I.] And 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 New-