

be appropriated to exonerate and discharge, indemnify and save harmless the said directors and every of them of and from all such costs, charges, damages and expenses which shall or may happen or arise, or which they or any of them shall reasonably expend or sustain for or concerning the trust aforesaid, nor shall any of the said directors be answerable for or charged with the defaults, neglects or misdeeds of the others of them.

Passed February 20, 1768. Confirmed by the King in Council, March 6, 1769. See Appendix XXVI, Section III, and the Acts of Assembly passed March 20, 1810, P. L. 225; January 21, 1834 P. L. 13.

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## CHAPTER DLXXVII.

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AN ACT TO ENABLE THE OWNERS AND POSSESSORS OF A CERTAIN TRACT OF MARSH AND MEADOW LAND THEREIN DESCRIBED, SITUATE IN THE COUNTY OF CHESTER, TO KEEP THE BANKS, DAMS, SLUICES AND FLOODGATES IN REPAIR, AND TO RAISE A FUND TO DEFRAY THE EXPENSE THEREOF.

Whereas there is a certain parcel of marsh and meadow land situate in the township of Ridley in the county of Chester, beginning at the fast land near the house of William Smith at Freeman's Creek, thence extending by the ditch bank along the said creek and Delaware river to Plumb creek and crossing over the dam to be made on the east side thereof, thence by the east side of the said creek and Grun creek to the dam to be made over Grun creek at Darby creek, thence extending over said dam down the said Darby creek and the mouth of Longhook creek, then up the same to the dam to be made, and over the said dam fifteen perches to the fast land near Joseph Taylor's house, and from thence along the said land to the place of beginning, including all the marsh and meadow within the said bounds, which said tract or parcel of marsh and meadow land hath been and now is embanked; but inasmuch as [there are several creeks which yet remain to be stopped which ought in justice to be done at the general expense of the owners of the meadows within the bounds aforesaid, and] the banks,

dams, sluices and floodgates made for the stopping out the tide waters from the same and for preventing the overflowings thereof, cannot be equitably and sufficiently maintained without a law for regulating the conduct of the owners in stopping the said creeks and in mending, repairing, supporting and maintaining the said banks, dams, sluices and floodgates which surround the same:

[Section I.] Be it therefore enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said tract and parcel of meadow lands shall be henceforth called and named the Longhooke Meadows, and that the said owners, occupiers and possessors of the said meadow land shall be called and named The Longhooke Company, and that Isaac Pearson, David Gibson and Philip Price, gentlemen, or any two of them, are hereby nominated, authorized and appointed within nine months after the publication of this act to divide the dams, sluices, floodgates and banks which surround and include all the said tract or piece of marsh and meadow land, and allot and appoint how many perches of the said bank each owner or possessor of the said tract shall make, repair, maintain and support, and to ascertain and declare what sum or sums of money or proportion of the expense each owner or possessor shall bear towards the stopping out the said creeks and maintaining them after they shall be so stopped out, in proportion to the number of acres of meadow he holds therein, having an equitable regard to the quality, situation and circumstances of the ground to each owner belonging and banks so to be allotted, all which said allotments and divisions so made and signified by an instrument in writing under the hands and seals of any two of them and recorded in the office for recording deeds for the county of Chester shall be the proper shares, parts, proportions and quantities of bank and of the expense in stopping out the said creeks for the several owners or possessors

of the said meadows to make, repair and support at their own proper expense and charge in their respective divisions.

[Section II.] And be it further enacted by the authority aforesaid, That the owners, occupiers and possessors of the said tract of meadow land respectively whose allotments, shares or parts of the bank are in any wise defective shall, within three months from the publication hereof, cause them to be put in good and substantial repair and make up, or cause their respective parts of the banks so as aforesaid allotted to be made up level on the top and sufficiently strong and secure to defend the said meadows from all inundations, for which end the said banks shall always be kept at least nine inches above all tides by each and all of the said owners, possessors or occupiers on their and each of their parts so as aforesaid to them respectively allotted under the penalty of ten shillings for every perch of bank not made or repaired as aforesaid, to be paid to the said company's treasurer by the persons so neglecting or refusing, to be levied by the managers hereafter to be chosen if they see cause and added to the common stock.

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

[Section IV.] And be it enacted by the authority aforesaid, That it shall and may be lawful for the said company or as many of them as shall think fit to meet together on the first Monday in March yearly and every year at the town of Darby, or such other convenient place as shall hereafter be appointed by the managers of the said meadow land or any two of them to be chosen by virtue of this act, and then and there by a majority of those met shall choose by ticket in writing three fit persons, owners or possessors of land in the tract hereinbefore described, to be managers, and one fit person to be treasurer for the year then next ensuing.

[Section V.] And be it 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 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 company, unless he or they shall have served two years successively in the said office next before his or their said appointment, which fine shall be recovered in the manner hereinafter directed for the recovery of other money payable to the treasurer of the said company, and the other managers or a majority of them shall proceed in the execution of their office without him or them, or if they think fit may choose 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 to be the treasurer for that year.

[Section VI.] And be it further 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 at least one sufficient surety 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 or a majority of them, 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, 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

do and execute all other matters and things as treasurer to the said owners respectively according to the true intent and meaning of this act; 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 belonging to the owners of the said meadow land unto his successor in the said office.

[Section VII.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said managers or any two of them as often as they shall see occasion to meet together and lay such assessments and taxes on every acre of meadow land in the said tract 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, dams, sluices, floodgates and other conveniences for stopping out the tides or draining the water from the said meadows; and if any part shall appear unfinished, 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, or a majority of them, shall consider and determine by what methods such part or parts may be made good and secure by stone or other firm and durable materials, 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) and within the counties of Philadelphia or Chester forthwith to amend their and each of their parts or allotments in such manner as they shall direct, all of which banks shall be of sufficient breadth and at least nine inches above any tide that hath been known.

[Section VIII.] And be it further 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 allotment 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 allotments, 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 district in which the said damage shall happen, and order the treasurer of the said company to pay the charge thereof.

[Section IX.] And be it further enacted by the authority aforesaid, That if any of the said owners or occupiers of the land in the said tract of meadow or any guardian of a minor owner thereof so warned by the said managers, or a majority of them, shall refuse or neglect after such warning to amend and repair their respective parts agreeable to the direction of the said managers, or if any of the said owners or guardians are not known or readily to be found within the said counties at the time aforesaid, that then and 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 necessary, to enter into and upon the lands of him, her or them where such breach or defect shall happen to be, and then and there to dig with the least damage to the owner thereof, and carry earth or purchase suitable materials to make, amend and repair the said banks, dams, sluices, floodgates and all other conveniences necessary for stopping out the tide or for draining the waters off 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 with those to whom such parts or shares of the banks so amended and repaired were before allotted as they shall think just and reasonable and shall also deliver to the said owners, guardians or possessors of the said meadow land on whose allotments such repairs shall be made, or to as many of them as shall be found, their respective bills of the charge of repairing the said part of the bank to them

before allotted, and shall order payment accordingly; and in case of their or any of their refusal or delay of payment they shall order the treasurer of the said company for the time being to advance and pay so much out of the common stock as shall be sufficient to satisfy the said charge until it can be obtained of those who ought to pay the same.

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

[Section X.] Be it enacted by the authority aforesaid, That every owner or possessor of land in the aforesaid meadow tract shall, on or before the second Monday in June next after publication hereof, 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 of drained meadow they respectively have, hold, occupy or possess in the said tract, exclusive of flats, creeks or waste lands; and all and every person or persons, whether owners or renters, who shall on the second Monday in June in every year hereafter be owner, occupier or possessor of meadow land in the said tract, shall in like manner pay or deposit 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 sum if paid by the aforesaid renter, he the said renter shall and is hereby empowered to deduct out of his rent, unless he shall be under a contract to the contrary with the owner.

So always and provided, That the sum of thirty pounds shall in the beginning of every year be in the said treasurer's hands ready to be applied in the premises as occasion may require, of all which sums of money and all other money 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 a book to be provided for that purpose keep a just and true account and shall pay and deliver the same according to the directions and orders of the managers for the time being or any two of them and not otherwise.

[Section XI.] 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 hereinbefore appointed for the payment of the yearly quotas, deposit money or assessment, cause a true list [to be made out] of the names of all and every of the said owners and possessors, with a true account of all and every acre of meadow which they respectively have, hold, occupy and possess exclusive of flats and creeks 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 current year when any alteration shall be of the aforesaid deposit of one shilling, 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 deposit money and assessments respectively in every year raised or assessed by this act, 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 in every year 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 or deposit, 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 for every thirty days' neglect or refusal 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 the same by the direction of this act.

[Section XII.] And be it further enacted by the authority aforesaid, That if any of the said owners, possessors or occupiers shall neglect or refuse as aforesaid to pay the several sums of money together with the forfeitures arising thereon which they respectively ought to pay at any time or times hereafter for the space of thirty days after any of the days or times in which it ought to be paid, or shall have neglected or refused



to make, amend or repair his, her or their part or share of the bank so as aforesaid to them allotted, or shall have neglected or refused to reimburse the treasurer for the time being the necessary expense thereof 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 managers or any two of them for the time being, in his own name to apply to some justice of the peace of the county for his warrant of distress for levying the said sums of money so neglected or refused to be paid, directed to the constable of the township where the meadows are, which said warrant the said justice of the peace is hereby empowered and directed to grant accordingly to be by the said constable levied on the tract or piece of marsh, meadow or cripple belonging as aforesaid to such owner or owners so neglecting or not to be found in the county, and deliver the same over unto the said managers, who, or any two of them, are hereby empowered and authorized to let the same on rent or any part thereof that may be sufficient belonging to such delinquent owner or owners so neglecting as aforesaid, or where they are not to be found in the county 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 out the said meadow the said managers do publicly notify the leasing thereof and let the same to the highest bidder.

[Section XIII.] 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 Longhook Company, 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 XIV.] And it is hereby 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 banks, dams, sluices and floodgates belonging to the owners of the said meadow land, and to inform the respective owners or the said managers when any repairs are wanting, and may displace such person or persons and appoint others as often as they shall think fit; and the said managers shall have 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 banks and dams, as well as for other general services of the said company.

[Section XV.] 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 shall think him, her or themselves aggrieved by any order, account or proceeding of any 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 any two of them, shall choose two other fit and disinterested persons, who, if occasion be, shall choose a fifth person, alike disinterested, and the persons so chosen, or any three of them, shall finally settle the same and other matters and things in dispute that shall be referred to them by the parties.

[Section XVI.] 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 Longhook Company 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 XVII.] 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 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 channel, creek or sluice best suiting to discharge the same into the main creek or river, and shall be allowed to open, scour and cleanse the same when and as often as they and the managers, or any two of them, 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 and also all such damages as shall be done to the banks within his said neighbor's allotment in such manner and proportion as shall be settled by a majority of said managers.

[Section XVIII.] And be it further enacted by the authority aforesaid, That if any person or persons shall wickedly and ma-

liciously cut through, break down or damage any of the said banks, dams, sluices or floodgates, 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 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 courts respectively to value the same, which fine shall be added to the common stock of the company for the general use and benefit of the owners of the said meadow land.

And the better to procure a constant supply of fresh water in the said Longhook Meadows, and also in the drained meadows on the east and northeast side of Plumb creek and Grun creek aforesaid, for the use of horses and cattle:

[Section XIX.] Be it enacted by the authority aforesaid, That at all times after the draining the said tract or parcel of meadow land there shall be in the lid or door of each sluice respectively hereafter to be placed at or near the two dams intended to be made across the two creeks aforesaid an hole or passage for the admission of water of such size and dimensions as on trial and experience shall be found necessary for the purpose aforesaid or for any other useful and beneficial purpose, anything hereinbefore contained to the contrary thereof notwithstanding.

[Section XX.] And be it further enacted by the authority aforesaid, That after the said dams shall be well and sufficiently made the owners and possessors of meadow land known by the name of the Tinnicum Company shall and they are hereby enjoined and required to support, repair and maintain forever hereafter the dam and sluice which shall be made over and across Plumb creek aforesaid at or near the river Delaware in like manner as they are enjoined and directed to support, maintain and repair the other dams and sluices within their division.

Passed February 20, 1768. Confirmed by the King in Council, March 6, 1769. See Appendix XXVI, Section III, and the Acts of Assembly passed February 18, 1769, Chapter 591; February 24, 1770, Chapter 606; March 28, 1792, Chapter 1612.