

directed to the sheriff or sheriffs, coroner or coroners of any such other county or counties and shall be proceeded on as in and by the said act is directed in the case therein mentioned.

Passed March 28, 1789. Recorded L. B. No. 3, p. 517.

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THIRD SITTING OF THE FIFTEENTH ASSEMBLY.

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CHAPTER MCDXXV.

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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, SLICES AND FLOODGATES IN REPAIR AND TO RAISE A FUND TO DEFRAY THE EXPENSE THEREOF.

(Section I, P. L.) Whereas there is a certain tract of marsh and meadow land situated in the township of Tinicum in the county of Chester bounded by the river Delaware, Darby Creek and the fast land, which said tract or parcel of marsh and meadow hath been and now is embanked, but inasmuch as the banks, dams, sluices and flood-gates made for the stopping out the tide waters from the same and for preventing the overflowing thereof cannot be equitably and sufficiently maintained without a law.

[Section I.] (Section II, P. L.) Be it enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met and by the authority of the same, That the owners, occupiers and possessors of the said tract or district of meadow land shall be henceforth called and named "the Darby Creek Company," and that Philip Price, John Pearson, Hugh Lloyd, John Hunt, Jun., and Isaac Serrill, gentlemen, or any three of them are hereby nominated, authorized and appointed within three months after the publication of this act, to divide the banks which surround and include the said tract or piece of meadow land and allot

and appoint how many perches of the said bank each owner or possessor shall hereafter make, repair, maintain and support in proportion to the number of acres he now holds or hereafter shall hold therein having an equitable regard to the quality, situation and circumstances of the bank 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 three 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 for the several owners or possessors of the said meadows to repair and support at their own proper charge and expense.

[Section II.] (Section III, P. L.) And be it enacted by the authority aforesaid, That the owners, occupiers or possessors of the said tract of meadow land whose allotments, shares or parts of the bank are in anywise defective shall within three months after the allotments made in pursuance of this act 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 of a sufficient breadth and 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 six inches higher than any tide that hath been known, by each or any 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, repaired and supported as aforesaid, which fine shall be recovered in the manner hereinafter directed and added to the common stock of the said company, and the owners or occupiers of lands of which the banks are shall sow the said banks with grass seed and mow and keep them clean from time to time when necessary and at such times as a major part of the managers shall order and direct and upon the neglect or refusal of any of the respective owners or possessors of any meadow lands in the said district after ten days notice being given him, her or them by a major part of the managers for the time being to sow with grass seed, mow and keep clean their respective parts of the

said bank, it shall and may be lawful to and for the major part of the said managers from time to time to employ a sufficient number of workmen to mow, keep clean and sow with grass-seed the banks so neglected and charge the owners, possessors or occupiers respectively with the whole cost arising thereupon and upon their or any of their neglect or refusal to defray the same it shall and may be lawful for the treasurer of the said district by the order of the major part of the managers to recover the money so expended in the manner hereinafter directed.

[Section III.] (Section IV, P. L.) And be it enacted by the authority aforesaid, That after the banks shall be made and repaired as aforesaid the costs and charges of maintaining and amending the dams, sluices and floodgates at all future times shall be paid by all the owners, occupiers, or possessors of the meadow land in the said district according to the number of acres that they and each of them shall hold, possess and occupy, the same to be maintained, supported and amended by the managers of the said district and in such manner as they or a majority of them hereafter to be chosen shall direct.

[Section IV.] (Section V, P. L.) 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 second Monday in September yearly and every year at the school house in the said township or such other convenient place as shall hereafter be appointed by the managers of the said company or any two of them to be chosen by virtue of this act, of which place and time of meeting the treasurer of the said company shall by advertisement notify the owners or occupiers ten days before the day appointed for such meeting and then and thereby a majority of those met shall choose by ticket in writing three fit persons, owners or possessors of land in the said company to be managers and one fit person to be treasurer of the said company for the year then next ensuing.

[Section V.] (Section VI, P. L.) And be it enacted by the authority aforesaid, That if any of the owners or pos-

sessors 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 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 company unless he or they 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 moneys payable to the treasurer of the said company and the other managers 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 do 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 manager for the time being shall choose another fit person to be the treasurer for that year.

[Section VI.] (Section VII, P. L.) 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 to the said Darby Creek Company with at least one sufficient surety in double the value of the money that 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 year 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, or that belong to the said company and shall well and truly pay the balance that shall appear on such settlement to be in his hands to such person 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 company 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 said company unto his successor in the said office.

[Section VII.] (Section VIII, P. L.) And be it 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 land in the said district 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 shall have the power of disposing of all moneys paid to the said treasurer by virtue of this act and of hiring and appointing at the expense of the company, if they see occasion, any person or persons from time to time to inspect the condition of all the banks, dams, sluices and floodgates within the bounds of the said district and 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 all other general services of the said company.

[Section VIII.] (Section IX, P. L.) And be it enacted by the authority aforesaid, That the major part of the managers of the said company for the time being shall at least three times in each year at such times as they think necessary by written or printed advertisements published in two or more places in the township of Tincum and at two or more places in the township of Ridley at least ten days before the time therein to be appointed, require the owners or occupiers of all meadow lands within the bounds of the said company to cut all ransted, elders, poke, thistles, burdock and other weeds growing therein which may be injurious to the said meadows, and should the owner or owners or occupiers of the [lands] or any of them neglect to cut or mow the same at such times as they shall be so required, it shall and may be lawful for the said managers

and they are hereby enjoined and required to hire and employ a sufficient number of workmen to cut or mow the same and to fine the said owner or occupier for their neglect in any sum not exceeding the cost of the said cutting or mowing and recover the money so expended in hiring men and the fine so imposed in like manner as other sums of money are by this act directed to be recovered, which fines shall be applied to the benefit of the said company.

[Section IX.] (Section X, P. L.) And be it enacted by the authority aforesaid, That all creeks or ditches which now are or hereafter shall be made in the said district of the width of nine feet and [the] depth of three feet shall be deemed and considered in law as lawful fences and enclosures and if any owner or occupier shall find on his or her land within the said district so enclosed as aforesaid any swine or hogs, it shall and may be lawful for the said owner or occupier to seize and take all such swine or hogs whether yoked and ringed or not and it being legally proved before the next justice of the peace that such swine or hogs were taken in his or her meadow land so enclosed, the said justice shall forthwith order and direct the treasurer of the said company to advertise the same and within five days sell at public auction all such swine and, after deducting all reasonable cost, divide the remainder equally between the treasurer for the use of the company and the person so taking them up.

[Section X.] (Section XI, P. L.) And be it enacted by the authority aforesaid, That the orders of any two of the managers for the time being on the treasurer 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 the said 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 commonwealth where the same may be cognizable as fully and effectually to all intents and purposes as if the same were private property and the receipts and discharges of such succeeding treasurer or treasurers for any such sums of money paid to him or them shall be effectual in law.

And whereas the cutting or making drains or ditches in suitable place and scouring those now made or which may hereafter be made will greatly conduce to the better improvement of the said meadows:

[Section XI.] (Section XII, P. L.) Be it therefore enacted by the authority aforesaid, That the major part of the managers of the said district shall at such times and so often as they see occasion direct and order that new drains and ditches be made where necessary or those which are already made scoured, and proportion the cost of making or scouring the same among those benefited thereby or order such compensation to those who may be injured as shall appear to them just and reasonable and compel payment in the manner hereinafter directed.

[Section XII.] (Section XIII, P. L.) And be it enacted by the authority aforesaid, That if any owner or occupier shall think him, her or themselves aggrieved by any act, order, account proceeding or neglect of any of the said managers, such owner or occupier 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 person so chosen or any three of them shall finally settle the same and all matters and things in dispute that shall be referred to them by the parties.

[Section XIII.] (Section XIV, P. L.) And be it enacted by the authority aforesaid, That if any person or persons shall wickedly and maliciously cut through, break down or damage any of the banks, dams, sluices or floodgates to the said district belonging, or shall let in any creek or water to annoy, injure or overflow any of their neighbor's lands in the said district and shall thereof be convicted before the justices of

the quarter sessions for the county of Chester, in all such cases the person or persons so offending shall be fined treble the value of the damages, one-third part of which fine shall be paid to the informer and the remaining two-thirds thereof shall be added to the common stock of the said company for the general use and benefit thereof.

[Section XIV.] (Section XV, P. L.) And be it enacted by the authority aforesaid, That if any of the said owners, occupiers or possessors of meadow land within the said district shall neglect or refuse to pay the several sums of money that shall from time to time be rated, assessed or imposed by the major part of the managers of the said company for paying and discharging their respective proportions for maintaining the dams and sluices to the said district belonging or for making and scouring drains or ditches when thereunto required as aforesaid, or fines incurred, for the space of twenty days after demand made by the treasurer of the said company, it shall and may be lawful to and for the said treasurer by the direction of the major part of the managers for the time being in his own name to sue for and recover the fines and sums of money so charged or assessed in the same manner as debts not exceeding ten pounds are by law recoverable and give this act and the said assessment or the said account in evidence. Provided, always, That such delinquent owner, occupier or possessor shall not be entitled to stay of execution for any longer time than ten days, or it shall and may be lawful to and for the said treasurer by the direction of the managers as aforesaid 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 said township, 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 belonging to such owner, occupier or possessor so neglecting or refusing and deliver the same over unto the managers for the time being, who, or a major part of them, are hereby empowered, authorized and directed to let the same on rent or any part thereof as may



be sufficient, belonging to such delinquent owner or occupier so neglecting as aforesaid from time to time for so long time as until the rent or rents arising therefrom shall as nearly as may be computed pay such sum or sums of money so assessed, charged or imposed, together with all costs and reasonable expenses arising thereon for his, her or their neglect or refusal to pay the same as aforesaid and no longer. Provided always, That in letting out the said meadow land the said managers shall for the space of ten days previous to letting the same publicly notify the leasing thereof and let the same to the highest bidder at public sale.

[Section XV.] (Section XVI, P. L.) And be it enacted by the authority aforesaid, That 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 in the condition of all the said banks, dams, sluices, floodgates and other conveniences for stopping out the tides or draining the waters from the said meadows and upon such inspection any allotment shall appear to be defective, damaged or unfinished, they, the said managers or a majority of them, shall give notice to and require the said owners, possessors or their guardians (if minors) forthwith to amend their and each of their parts and allotments in such manner as by this act is directed and if any of the said owners or possessors of the land in the said tract of meadows 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 (notice thereof being given in writing) to amend and repair their respective parts agreeable to the directions of the said managers, or if any of the said owners or guardians are not known or readily to be found 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 tides or for draining the waters off the said meadows in such manner and by such ways and means as they shall think fit and reasonable, any law of this commonwealth, usage or custom to the contrary in anywise notwithstanding, and they, the said managers or some of them shall deliver to the said owners, possessors or guardians 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 charges] of repairing the 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 for the time being to recover the several sums of money so expended in the manner hereinbefore directed for the recovery of fines and moneys due to the said company.

[Section XVI.] (Section XVII, P. L.) And be it enacted by the authority aforesaid, That the managers of the said district shall each of them have and receive seven shillings and six pence per day for each day that they shall be employed in the several duties required of them and the treasurer shall have such compensation for his services as a major part of the said managers shall think adequate.

[Section XVII.] (Section XVIII.) And be it further enacted by the authority aforesaid, That the owner or occupier of the ferry across Darby creek shall maintain and support that part of the bank in the said district which adjoins the highway on which they land their passengers and of the breadth of the said highway and should [the] owner or occupier of the said ferry neglect to maintain and support the said piece of bank when thereunto required by the managers of the said company or any two of them, it shall and may be lawful for the said managers or either of [them to] cause the said piece of bank to be amended and repaired sufficiently and compel the owner or occupier of the said ferry to pay the expense thereof in the manner hereinbefore directed.

Passed September 4, 1789. Recorded L. B. No. 3, p. 518.