

CHAPTER MMCDLX.

AN ACT TO ENABLE AND ENFORCE THE OWNERS AND POSSESSORS OF A CERTAIN TRACT OF MARSH MEADOW, SITUATE PARTLY IN THE TOWNSHIP OF LOWER CHICHESTER, AND THE TOWNSHIP OF CHESTER, IN THE COUNTY OF DELAWARE, ADJOINING THE RIVER DELAWARE, TO KEEP THE BANKS, DAMS, SLICES AND FLOOD-GATES IN REPAIR, AND FOR OTHER PURPOSES.

Whereas there is a certain tract or parcel of marsh and meadow-land, situate partly in the township of Lower Chichester, and in the township of Chester, in the county of Delaware, commonly known by the name of Lower Chichester marsh-meadow, and bounded as follows, to wit: Beginning at the fast-land of Martha Smith, in the township of Lower Chichester, adjoining the river Delaware; thence by the said river Delaware to the fast-land of John Price, in the township of Chester; from thence by the fast-land, to the place of beginning; which said tract or parcel of marsh and meadow-land, hath been and now is embanked; but, inasmuch as the banks, dams, sluices and flood-gates made for stopping out the tide-waters from the same, and preventing the overflowing thereof, are not kept in good and sufficient repair, and cannot in the opinion of the owners, without a law requiring and enforcing the owners and possessors to maintain and keep good the same: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the owners and occupiers of the said tract of meadow shall be henceforth called and named the Lower Chichester meadow company, and that they, or as many of them as shall think fit, shall and may meet together, on the last Monday in March yearly, and every year hereafter, or at some other convenient time, as may be agreed upon, at the house now occupied by Jacob Derebacher, in the township of Lower Chichester, or at such other convenient place in the said township 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 notify the owners and occupiers, by three advertisements at least in the said township of Lower Chichester, ten days before the day appointed for such meeting; and then, and there, by a majority of those present, choose by ticket in writing three fit persons, owners or possessors of land in the said district, to be managers, and one fit person to be a treasurer for the year next ensuing: Provided always, that no tenant shall have a right to be elected unless he rents four or more acres.

Section II. (Section II, P. L.) 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 or their 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 or their duty, shall forfeit and pay to the use of the company eight dollars; which fine shall be recovered by the treasurer in the manner hereafter pointed out, unless he or they have served four years successively in the said office, next before his or their said appointment, and the other managers shall proceed in the execution of their office; or if they think fit, may choose another of the said owners or possessors to be manager, in the place of any one so refusing or neglecting to serve; 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, he shall pay a fine of eight dollars, to the use of the company; which fine shall be recovered at the suit of the managers of the said company, or either of them, in manner aforesaid; and if the treasurer chosen as aforesaid, shall, by death or otherwise, be rendered incapable to execute the said office, the managers, for the time being, shall choose another fit person to be the treasurer for that year.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That every treasurer hereafter to be chosen, or appointed as aforesaid, shall before he takes

upon him the execution of his office, enter into an obligation to the managers, with at least one sufficient surety, in double the value of the money that may probably come into his hands during his continuance in 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 will well and truly account, adjust and settle with them, when required, for and concerning all monies that are or shall come into his hands by virtue of this act, or that belongs to the owners of the land in the said district, 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 time in 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 IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That whereas certain parts and portions of the said bank, and certain of the dams, sluices and flood-gates, have hitherto been maintained and supported at the individual expense of Martha Smith, David Trainer and Sarah his wife, the heirs of Samuel Price, Benjamin Johnston, and the heirs of David Johnston, Jonathan Dutton, Jacob Richards, Erasmus Morton, John Price, and Thomas Cobourn, the said parts and portions of the said bank, and the said dams, sluices and flood-gates shall continue to be maintained and supported as heretofore, at the expense of the said Martha Smith, David Trainer and Sarah his wife, the heirs of Samuel Price, Benjamin Johnston, and the heirs of David Johnston, Jonathan Dutton, Jacob Richards, Erasmus Morton, John

Price and Thomas Cobourn, their heirs or assigns respectively.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said managers, to meet together as often as they shall see occasion, to direct the necessary repairs; and the said managers or a majority of them, for the time being, are hereby empowered, authorized and required, to enter upon and inspect, at least four times in each year, the condition of the said banks, dams, sluices and flood-gates, and other things necessary for stopping out the tide, and draining the waters from the said meadows, and where they find any of the said banks, dams, sluices or flood-gates defective, or insufficient, they shall give notice thereof to the owner, owners or possessors; and if any of the said owners or possessors, after notice given by the said managers or a majority of them, shall refuse or neglect to make, amend or repair their, or any of their parts, respectively, then it shall and may be lawful for the said managers, or a majority of them, to purchase suitable materials, and together with such workmen, horses carts, barrows and other implements, as they shall think necessary, to enter into and upon any of the lands of the said delinquent, or delinquents in the said district, where the breach or defect is, and to dig and carry earth, to make, amend and repair the said banks, dams, sluices and floodgates, and to do all other things necessary for stopping out the tide, or for draining the waters off the meadows so as aforesaid found defective, or insufficient, and they shall adjust and settle the price thereof, and charge the owner or owners, or possessors so refusing or neglecting, with his, her or their respective parts of the same; and if the said owners or possessors shall, after demand made by the treasurer of the company of the amount with which they stand charged, for making, amending and repairing the said banks, dams, sluices and flood-gates, refuse or neglect to pay the full amount, into the hands of the treasurer, for the space of ten days, then it shall and may be lawful for the treasurer, forthwith to levy the aforesaid sum or sums of money, on the goods, chattels

and effects of the said delinquent or delinquents, in the same manner as the collector of the county taxes do levy and collect the same.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That all line and fast-land ditches or drains, and those leading to sluices which now are or hereafter shall be made in the said district, shall be of the width of nine feet, and of the depth of four feet, and shall be made, scoured and kept clean, at all times, by the owners or possessors of the said meadows, and that the ditch or drain, inside of and next to the bank, may be of the width of nine feet, and depth of four feet, and kept clean as aforesaid, at the discretion of the supporters of the bank, adjoining or contiguous to such ditch or drain; 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 or a majority of them, to make, amend, scour or repair their or any of their parts, respectively, it shall and may be lawful for said managers, or a majority of them, and they are hereby forthwith required and enjoined, to order any workmen to open, scour or amend the said drain, or drains, and they shall adjust and settle the price thereof, and charge the owner, owners or possessors, so refusing, or neglecting, with their respective parts of the same, and compel payment in the manner pointed out by the fifth section of this act.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the orders of any two of the managers on the treasurer of the said company, for the time being, shall be complied with or paid by the 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.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That if any owner or occupier shall think him or herself aggrieved by any act, order, account, proceeding or neglect of any of the said managers, such owner or occupier shall, if he, she or they think proper, choose one fit disinterested person, who, if occasion be, shall

choose a third person alike disinterested, as umpire, who shall finally settle all matters and things in dispute, that shall be referred to them by the parties, and the party entitled to the balance or damages so found, may recover the same in the manner hereinafter mentioned for the recovery of fines and penalties.

Section IX. (Section IX, P. L.) And be it further 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 flood-gates, to the said district belonging, or shall let in any creek or water, to annoy, injure or overflow the meadows therein, and shall thereof be convicted before the judges of the court of quarter sessions in the county of Delaware, 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 disinterested persons, to be appointed by the said court, to value the same; one third part of which fine shall be paid to the person or persons injured, and the remaining two-thirds thereof shall be paid to the treasurer for the use of the said company.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the managers of the district shall each of them have and receive one dollar per day for each day they shall be employed in the several duties required of them by this act; and the treasurer of the said company shall have such compensation for his services as a majority of the managers of the said district shall think adequate.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That for the purpose of paying the compensation of the managers and treasurer, and for other necessary expenses, other than those of maintaining and supporting the said banks, dams, sluices and flood-gates, it shall and may be lawful for the said managers or a majority of them, to assess a sum of money sufficient therefor, which shall be paid into the hands of the treasurer by the members of the company, in proportion to the value of the marsh held by each: Provided nevertheless, That the owners and possessors of the back-lots within the limits of the com-

pany, in addition to the sum so assessed as aforesaid, shall pay into the treasury of the company, such further sum as their proportion of the expenses of supporting and maintaining the said banks, dams, sluices and flood-gates, as shall be just and reasonable, according to the value of the said back-lots; which further sum shall and may be adjusted, by mutual agreement, between the managers and the holders of the said back-lots; and in case that the said managers and the holders of the said back-lots, cannot agree, it shall and may be lawful for the said managers to choose one disinterested person, and the holders of the said back-lots to choose one other disinterested person, as arbitrators, who, in case of disagreement, may choose a third as umpire; and the said arbitrators shall and may proceed, immediately, to determine the said further sum to be paid by the holders of the said back-lots; and the determination of the said arbitrators shall be final; and in case of neglect or refusal in any member of the said company, to pay the sum so assessed, agreed upon or awarded, the said sums shall be recovered in the manner pointed out by the last section of this act for the recovery of fines and penalties.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That all the fines and penalties made payable by this act, shall, if not otherwise pointed out, be recovered by the treasurer of the company, by suit, in his own name, in the same manner as debts of equal amount are by law recoverable: Provided always, that the delinquents shall not be entitled to stay of execution for any longer time than ten days.

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