

sylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, Cohocksink creek, in the township of the Northern Liberties, and the county of Philadelphia, from the mouth thereof up to the bridge on the road leading to Frankford, shall be, and the same is hereby, declared to be a public highway for the passage of all kinds of vessels and rafts which can float therein, and it shall and may be lawful for the inhabitants, desirous of using the navigation of the said creek, to remove all natural and artificial obstructions, from the mouth thereof up to the aforesaid brige, so as that the said creek shall be navigable forty feet in width. Provided nevertheless, That it shall and may be lawful to throw such drawbridge, or drawbridges, across the said creek as shall not obstruct the passage of the same.

[Section II.] (Section II, P. L.) And be it further enacted by the authority aforesaid, That the drawbridge at present thrown across the aforesaid creek shall remain until another can be erected.

[Section III.] (Section III, P. L.) And be it further enacted by the authority aforesaid, That the inhabitants, desirous of using the navigation of the said creek, shall have the right to enlarge the draw of the present bridge to the width of eighteen feet.

Passed February 27, 1797. Recorded L. B. No. 6, p. 147, etc.

CHAPTER MCMXXII.

AN ACT TO ENABLE THE OWNERS AND OCCUPIERS OF A CERTAIN TRACT OF MARSH AND MEADOW LAND THEREIN DESCRIBED, SITUATE IN THE TOWNSHIP OF DERBY AND COUNTY OF DELAWARE, TO KEEP THE BANKS, DAMS, SLICES AND FLOODGATES IN REPAIR, AND TO RAISE A FUND TO DEFRAY THE EXPENSE THEREOF.

Whereas there is a certain piece or parcel of marsh and meadow land, situate in the township of Derby, in the county of Delaware, on the northwest side of Derby creek, beginning at

a mulberry stump on the fast land late of John Grantham, thence extending up Derby creek, by the several courses thereof, to the fast land at or near the junction of the line of John Frederick and Daniel Humphreys, deceased, and from thence along the fast land to the place of beginning, including all the marsh and meadow land within the said bounds, which said tract or parcel of marsh or meadow lands hath been and now is embanked, but inasmuch as the banks, dams, sluices and floodgates made for the stopping out the tide waters from the same, and for preventing the overflowing thereof, cannot be equitably and sufficiently maintained by the present existing law. 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 or possessors of the above described piece or parcel of meadow lands, shall be called and known by the name of "The Southern District Derby Meadow Company," and it shall, and may be, lawful for the said company to meet together on the first Monday in March yearly, and every year hereafter, at the house of Samuel Ash, in the township of Derby, or such other place in the said township as shall hereafter be appointed by the managers or any two of them to be chosen by virtue of this act, of which time and place of meeting the treasurer, to be also chosen by virtue of this act, shall notify the said owners and possessors by three or more advertisements placed in the said township ten days before the day appointed for such meeting, and then and there 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 treasurer for the year thence next ensuing.

[Section II.] (Section II, P. L.) And be it further enacted by the authority aforesaid, That if any one of the owners or possessors, elected managers as aforesaid, on due notice given in writing of his election by the treasurer, shall refuse, or afterwards neglect, to do the duties required of him by this act, he shall forfeit and pay to the treasurer for the time being the sum of sixteen dollars, to be added to the common stock of the said company, unless he shall have served two years successively in

the said office next before his said election, which fine shall be recovered in the manner hereinafter directed for the recovery of other monies payable to the treasurer of the said company and the other manager or managers shall proceed in the execution of his or their office or, if they think fit, may choose another, or others, of the said owners or possessors to be a 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 office, in any of these cases the managers for the time being shall choose another fit person to be 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 shall, before he takes upon himself the execution of his office, enter into an obligation, with at least one sufficient surety, in double the value of the money that hath or may probably come into his hands during his continuance in office as near as can be estimated by the managers, conditioned that he shall, 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 into his hands by virtue of this act, or in anywise belonging to the said company, and will 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 direct and not otherwise, and that he shall do and execute all such other matters and things as treasurer of the said company according to the true intent and meaning of this act, and that he shall, at the expiration of this 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 office.

[Section IV.] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the banks, dams, sluices and

floodgates, which belong to the said company, shall hereafter be repaired and maintained by the managers in common, for which purpose 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. Provided always, That previous to any reparation and maintenance in common, those banks which are now deficient shall be made and put in equally good order with the rest, at the expense and cost of the respective owners to which they now belong, by the said managers forming and repairing the same with such materials, and in such manner, as the situation and exposure of such deficient banks shall require, to be adjudged and determined by Hugh Lloyd, Jacob Gibbons and John Hunt, or any two of them, and, in case of death or refusal of either of them to undertake it, the vacancies shall be supplied by the mutual choice of the owners of the deficient and sufficient banks, or such of them as will join in the choice upon due notice, and the owners or occupiers of land, on which the banks are, shall sow the said banks with grass seed, and mow and keep them clean, at such times as the managers shall order and direct.

[Section V.] (Section V, P. L.) 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 company, any person or persons from time to time to inspect the condition of all the banks, dams, sluices and floodgates belonging to the said company, 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 other general services of the said company.

[Section VI.] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the majority of the managers for the time being shall, at least three times in each year hereafter, by written or printed advertisements published in three or more places in the said township at least ten days before the

time therein to be appointed, require the owners or occupiers of all meadow land belonging to the said company, to cut all ranstead, alder, poke, thistles, burdock and other weeds which may be injurious to the said meadows, and should the owners or occupiers of the said 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 men to cut and mow the same at the proper cost and charge of such owners or occupiers so neglecting to mow and cut the same, and to fine the said owners or occupiers for their neglect, in any sum not exceeding the cost of such mowing or cutting, and to recover the money so expended, 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 put into the common stock, and applied to the use of the said company and the said managers shall cut, or cause to be cut, at the most proper times all ranstead, alder, poke, thistle, burdock and other injurious weeds, which may grow in the lawful roads within the said district, and defray the expense thereof out of the moneys belonging to the company.

[Section VII.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That all creeks and thoroughfares in the aforesaid tract of meadows, of the width of nine feet and the depth of three feet, shall be deemed and considered as lawful fences and enclosures, and if any owner or occupier shall find, on his or her land 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, being legally attested before the next justice, 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 costs, divided the remainder equally, reserving one-half for the use of the company, and paying the other half to the person so taking them up.

(Section VIII, P. L.) And whereas the cutting and making drains or ditches in suitable places, and scouring those now made or which may hereafter be made, will greatly conduce to the improvement of the said meadows:

[Section VIII.] Be it enacted and it is hereby enacted by the authority aforesaid, That the majority of the managers shall, at such times and so often as they shall see occasion, direct and order that new ditches and drains be made and where necessary, or those which are already made scoured, and apportion the cost of making and scouring the same amongst those benefited thereby, or render such compensation to those who may be injured as shall appear just and reasonable, and compel payment in manner hereinafter directed.

[Section IX.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That if any owner or occupier shall think himself aggrieved by any act, order, account, proceeding or neglect of any of the said managers, such owner or occupier shall, if he 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 all matters and things in dispute that shall be referred to them by the parties.

[Section X.] (Section X, 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 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 and mortgages, deeds and conveyances in trust, for the use of the said owners, shall be taken in the name of the treasurer of the Southern District Derby Meadow Company, and to 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 duly assigned in all the forms of law, and the receipts and discharges of each succeeding treasurer or treasurers, for any such sum or sums of money paid to him or them shall be effectual in law.

[Section XI.] (Section XI, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall wilfully and maliciously cut through, break down, or damage any of the banks, dams, sluices, or floodgates belonging to the aforesaid company, 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 judges of the court of quarter sessions for the county of Delaware, in all such cases the person or persons so offending shall be fined treble the value of the damage, to be assessed by two or more indifferent persons to be appointed by the said court to value the same, one-third part of which fine shall be paid to the persons injured, 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 XII.] (Section XII, P. L.) And be it further enacted by the authority aforesaid, That if any of the said owners or possessors of meadow lands, within or belonging to the aforesaid meadow company, shall neglect or refuse to pay the several sums of money that shall from time to time be rated, assessed, or imposed, by the majority of the managers, for paying and discharging their respective proportions for maintaining the banks, dams, sluices and floodgates belonging to the said meadow company, or for making or scouring drains or ditches, when thereto required as aforesaid, for the space of thirty days after demand made by the treasurer, it shall and may be lawful for the said treasurer, by direction of the majority of the managers for the time being, in his own name to sue for and recover the several sums of money so charged and assessed, in the same manner as debts not exceeding twenty pounds are by law recoverable, and give this act, or the said assessment or account, in evidence. Provided always, That such delinquent owner 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 said county for his warrant of distress for levying the said sum of money so neglected or refused to be paid, directed to the constable of the township in which 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 belonging to such owner or possessor so neglecting or refusing, and deliver the same over to the managers for the time being, who, or a majority 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 possessor so neglecting as aforesaid, until the rents arising therefrom shall be sufficient to pay all such sum or sums of money so assessed, charged or imposed, together with all costs and reasonable expenses arising thereon, (and reasonable allowance to the said treasurer for his extraordinary trouble and expenses, to be adjusted by the said justice of the peace). Provided always, That in letting out the said meadow lands the said managers do publicly notify the leasing thereof, and let the same to the highest bidder at public sale.

[Section XIII.] (Section XIII, 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, floodgates and other conveniences necessary for stopping out the tide and draining the water from the said meadows, and it shall and may be lawful to and for the said managers, or any of them, together with such workmen, horses, carts, barrows or other tools as they shall think necessary, to enter into and upon the lands in or belonging to the said company, where a breach or defect now is, or shall hereafter happen to be, and then and there to dig and carry earth, or purchase

suitable materials to make, amend and repair the said banks, dams, sluices and floodgates, and all other conveniences necessary for stopping out the tide, or for draining the waters of the meadows, in such manner and by such means as the said managers or a majority of them shall think fit and reasonable, any law, usage or custom of this commonwealth to the contrary in anywise notwithstanding.

[Section XIV.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That the managers of the company shall, each of them, have and receive one dollar and fifty cents 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 majority of the said managers shall think adequate.

[Section XV.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That an act of assembly of the province of Pennsylvania entitled, "An act to enable the owners and possessors of a certain tract of marsh and meadow land called the Southern District Derby Meadow Company to keep the banks, dams, sluices and other conveniences for keeping out the tide waters and draining the same in repair,"¹ and also an act of assembly of the said province entitled, "An act for amending each and every of the acts of assembly of this province heretofore made for embanking and draining several parcels of marsh lands situate in the counties of Philadelphia and Chester, and for repairing and maintaining the banks, dams, sluices and floodgates thereunto belonging,"² so far as they relate to the aforesaid Southern District Derby Meadow Company, shall be and are hereby repealed and made null and void Provided, That nothing herein contained shall prevent the collection of any fines, taxes or moneys which have been assessed, levied or received by virtue of the said acts, or either of them.

¹Passed February 17, 1762, Chapter 475.

²Passed February 15, 1765, Chapter 523.

Passed March 4, 1797. Recorded L. B. No. 6, p. 148, etc.