

TITLE XXIV.  
MEADOWS.

- Chap. 1....OF IMPROVING TIDE SWAMPS, MARSHES, AND MEADOWS.
- “ 2....OF DRAINING SWAMP OR MEADOW GROUND.
- “ 3....OF ROADS TO SALT MARSH OR MEADOW.

CHAPTER 1.

OF IMPROVING TIDE SWAMPS, MARSHES, AND MEADOW.

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III....SUPPLEMENT.

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VI....FURTHER SUPPLEMENT.

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REV. 82. **1....An Act to enable the owners of the tide swamps and marshes, to improve the same, and the owners of meadows already banked in, and held by different persons, to keep the same in good repair.**

Passed November 29, 1788.

Court of common pleas to appoint commissioners, on application of owners.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That if the owners of two-thirds of any body or tract of marsh or swamp, exposed to the overflow of the tide, and capable of being laid dry,

and put in a proper state for improvement by one general bank or dam, are desirous to improve the same, and the whole cannot agree, such owners, desirous of improving as aforesaid, after giving three weeks previous notice to those who refuse or neglect to join in such improvement, by notice left at each of their places of abode, or by advertising their intentions in three of the most public places in the neighbourhood, at least three weeks previous thereto, may apply to the court of common pleas of the county, in which such marsh doth lie; or in case a county line shall run through the marsh or swamp proposed to be improved as aforesaid, to the court of common pleas nearest thereto; on which application the members of such court, who are disinterested and unconnected with the parties, shall, and they are hereby required to appoint, by a certificate under their hands and seals, three or more judicious and disinterested men, well acquainted with banking and improving tide meadows, as commissioners; which commissioners, after giving notice of the time and place of meeting, shall view the premises, and hear the parties, and, if they then think proper, lay out the bank, dam, sluices, floodgates, or other works necessary for securing the marsh or swamp from the overflow of the tide, in such place or places as may appear most safe and beneficial to the whole of the owners of the marsh or swamp intended to be secured from the overflow of the tide, and make an actual survey thereof, describing the place of beginning, courses, and distance, and places where the sluice or sluices, or floodgates, shall be laid, and where the bank or dam shall join the fast land; and also fix a name for the company, and appoint the time and place of their first meeting, and deliver a certificate of their proceedings, signed by a majority of them, to the clerk of the court, from which they received their appointment, which clerk shall forthwith record the said certificate in the road book kept in his office; *provided always*, that no navigable water shall be stopped by virtue of this act, the use of which navigation may, in the opinion of the majority of the men appointed as aforesaid, be of more than half the value to the inhabitants of the neighbourhood, that the improvement of the meadow would be to the owners thereof; *and provided also*, that nothing in this act shall be construed to authorize the stopping out any creek or river capable of navigation for shallops or flats, that can carry eight cords of wood.

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Their duty.

Proceedings  
to be certifi-  
ed and re-  
corded.

Certain na-  
vigable  
streams not  
to be stop-  
ped.

2. *And be it further enacted*, That the expense of erecting, making, and maintaining the banks, dams, sluices, floodgates, and other works, laid out as aforesaid, and also all the general water-courses necessary for draining the marsh, swamp, or meadow ground secured from the overflow of the tide by the aforesaid

How expen-  
ses of bank-  
ing to be de-  
frayed.

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banks or works, as well as the expense of laying out the banks, works, and watercourses, and every other necessary expense for the benefit of the company, shall be defrayed by a tax, laid on the meadow ground secured from the overflow of the tide as aforesaid, in manner hereafter directed.

When banks laid out, owners to meet, etc.

3. *And be it further enacted,* That after the banks, dams, and works are laid out, and a certificate thereof recorded as aforesaid, some one or more of the company shall give at least one week's notice of the time and place of the aforesaid first meeting, by notice left at the house of each owner, or by advertising the same in three of the most public places in the neighbourhood, at least one week previous to the said time of meeting.

To choose managers, treasurer, clerk, etc.

4. *And be it enacted,* That it shall and may be lawful for the owners and possessors of land, lying within the bank or dam laid out as aforesaid, their legal agents or representatives, to meet at the place appointed, and, between the hours of one and five in the same afternoon, to choose, by ballot or otherwise, and by plurality of votes of those met, such person or persons as they may think proper for managers, and a treasurer and clerk for the ensuing year, or until the next annual meeting thereafter, and three or more indifferent men, to value all the marsh, swamp, or meadow ground secured by the bank from the overflow of the tide.

Marsh to be measured, valued, and assessed.

5. *And be it enacted,* That the managers, when appointed as aforesaid, or a majority of them, shall, as soon as may be, cause all the lots and parcels of the marsh, meadow ground or swamp, belonging to each owner, usually overflowed by the tide, and lying within the bounds of the proposed bank or dam and waterworks, to be carefully and strictly measured, and a draught or plot to be made, showing the quantity held by each owner; and cause a valuation to be made, by the men appointed as aforesaid, of the meadow ground of each owner, separately; and shall, thereupon, make an estimate of the sum or sums of money which will be necessary to defray the expenses of the different services required by this law, and also of making and erecting the bank, dam, and other works necessary to keep the tide from overflowing the meadows within them, until the said meadows shall be laid dry, and put in a proper state for improvement; and shall assess the same, ratably, on the said meadow, agreeably to the valuation and quantity each owner may have within the bank or dam; and shall state the said assessment in a regular duplicate, containing the names of the owners or possessors, the number of acres and parts of acres held by each, the sums assessed on them, severally, and the time or times of payment; which duplicate shall be delivered by them to the treasurer chosen as aforesaid.

6. *And be it enacted,* That the treasurer, on receipt of the said duplicate, shall, in person, or by notice in writing, left at the usual place of abode of each owner or possessor, demand of and from each owner and possessor, twenty days before the time of payment, the sum assessed as aforesaid; and if any of the said owners or possessors shall neglect or refuse to pay the sum assessed as aforesaid, for the space of twenty days after the time fixed for payment thereof, it shall and may be lawful to and for the said treasurer to seize and rent out, by public vendue, to the highest bidder, for so long time, and no longer, as will be requisite, so much of the meadow ground within said bank belonging to, or in possession of such delinquent owner or possessor, as may suffice to discharge such assessment, and all expenses attending the recovery thereof, having first advertised the same, for the space of three weeks, in three of the most public places in the neighbourhood where the said meadow lies, or may be sold.

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How to recover assessments.

7. *And be it enacted,* That if said estimate, so made and collected as aforesaid, should not produce a sufficient sum of money to fulfil the purposes above mentioned, the said managers shall make, in like manner, an estimate of such sum as may be further necessary, which shall be collected in like manner, as is herein before directed.

Assessment insufficient. another may be made.

8. *And be it enacted,* That the said managers shall, from time to time, at least once in every three months, inspect and examine the banks, sluices and waterworks, whatsoever, erected or made for the benefit of the aforesaid company; and shall cause or procure to be made or done, all such repairs and amendments, as to them, or a majority of them, shall seem necessary; and for defraying the expense thereof, shall assess, in manner aforesaid, such sum or sums of money as may be requisite, which shall be collected in manner aforesaid.

Banks examined quarterly, and kept in repair.

9. *And be it enacted,* That, after the meeting of the said owners and possessors at the time and place appointed as aforesaid, it shall and may be lawful for the said owners and possessors to meet and assemble statedly, on the first Monday in April, yearly and every year, at one o'clock in the afternoon of that day, at such place as a majority of those met at the first meeting, or at the last preceding annual meeting, may have from time to time appointed; and there, between the hours of one and five in the afternoon, by ballot or otherwise, and plurality of votes of those met, appoint managers, a treasurer, and clerk as aforesaid, to continue for one year, and from thence until others are appointed to supply their places; and the manager or managers, treasurer and clerk, shall have the like powers as those herein before mentioned; *provided always,* that nothing

Officers annually elected.

Proviso.

TIT. XXIV. in this act contained shall be construed to prevent a manager  
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Clerk's duty. 10. *And be it enacted*, That it shall be the duty of the clerk, chosen as aforesaid, from time to time, to enter in a book, to be provided for that purpose, all votes, proceedings, orders and assessments, made by the said owners and possessors, or the managers, and all transactions whatsoever, which the said owners and possessors or managers shall direct.

Executors, etc., authorized to vote. 11. *And be it enacted*, That it shall and may be lawful for the executors or administrators of any person deceased, to whose estate a part of meadow ground lying in company did belong, and to and for the guardians of minors, and to and for the agents of single women, or other persons, who cannot attend the meeting of the owners and possessors, such agents being appointed in writing, to vote at said meetings.

On death or disability of officers, others to be elected. 12. *And be it enacted*, That if any of the managers, or treasurer, or clerk, should, at any time within the year for which they are elected, by death or other disability, become incapable of executing the duties required by this act, it shall and may be lawful for the managers, or a majority of them, or the survivors, or a majority of them, or the survivor, or if none remain, any two of the owners or possessors, to call a meeting by notice in writing left at the place of abode of each owner or possessor, or by advertising the same in three of the most public places in the neighbourhood, at least two weeks previous thereto, for the purpose of supplying the vacancy or vacancies; and the persons appointed in consequence shall have the like powers for the remainder of the year, as those had in whose places they may be appointed.

Wages of officers to be fixed by the company. 13. *And be it enacted*, That the owners and possessors of meadow ground, lying in company as aforesaid, or their representatives at the annual meeting, from time to time, shall fix and determine, by the vote of a majority of those met, the wages or salaries to be paid to the managers, treasurer, and clerk, from year to year.

Mud and earth, where to be dug. 14. *And be it enacted*, That it shall and may be lawful for the manager or managers, or a majority of them, to dig or cause to be dug, mud, sand or other earth, for the erecting and repairing the banks and works, from time to time, in such places as shall be most convenient to the banks and works under his or their direction, and least detrimental to the owners of the soil; and whenever it shall, in the opinion of the manager or managers, or a majority of them, appear necessary to lay or erect any works without the banks, to prevent the wash from damaging the banks or works, the said manager or managers are hereby empowered to cause such works to be made or done, and to defray the expense thereof, as

Outer works may be erected.

herein before directed for defraying the expense of other works and repairs. TIT. XXIV. CHAP. I.

15. *And be it enacted*, That all line ditches or drains, of nine feet wide at the surface of the meadow, four feet and a half at bottom, and three feet deep, and lying on a mud or miry bottom, shall be deemed and reputed, and the same are hereby declared to be lawful fences, and shall be divided in the same manner, and made and maintained in the same proportion as line fences are by law directed to be divided, made and maintained; and the mud, earth or rubbish, shall be cast as equally as may be on each side, except the owners, by agreement, determine otherwise. What line ditches and drains declared lawful fences, and how maintained.

16. *And whereas* many owners of meadows, already banked from the tide, suffer great loss and damage by the conduct of others, who own meadow lying within the same bank, and neglect or refuse to keep their part or parts of the bank, works, and watercourses in good repair; therefore—*be it enacted*, that in all cases where several persons own meadow ground within one and the same bank, dam, or other enclosure, and liable to be overflowed or damaged by a breach in any part of such bank, dam or other works, and any of the owners or occupiers of any part thereof, shall neglect or refuse to keep his, her, or their part or parts of said banks or works in repair, to the damage or danger of the other owner or owners, any owner or owners so damaged, or in danger of being damaged by such neglect, may, upon six days notice being given to the other owners or occupiers, apply to the judges of the inferior court of common pleas of the county where such meadow may be, who shall appoint, by a certificate, under the hands of a majority of them, three or more men, as before described, who, after giving ten days previous notice to all concerned of the time and place of meeting, shall hear the parties, view the premises, and, after taking into consideration every circumstance, matter, and thing, which may tend to enable them to do justice between the parties, divide the bank and other works necessary for the safety and improvement of the meadows, and give and allot to each owner and occupier his or her respective share or part to keep up and maintain; or direct that the whole of such bank and works shall be supported by a tax, laid from time to time, agreeably to the quantity and quality of the meadow enclosed from the tide by said bank; and likewise, in either case, lay out all the necessary general watercourses in such places as may be most convenient and beneficial for the purposes of draining the meadows generally, and least detrimental to the owners of the soil; and order the maintenance of the watercourses in the same manner as the banks and works, either by giving each owner his or her share or part of Mode of proceeding against owners for neglect.

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the bank and works to make, keep up, and maintain, or order that the whole of the bank, dam, and other works and general water-courses shall be made and maintained by a general tax; and give a certificate of their proceedings, with the courses and distances, if required by any owner or owners, signed by a majority of the commissioners appointed as aforesaid.

Grievances,  
how to be  
redressed.

17. *And be it further enacted*, That if any owner or owners shall think him, her, or themselves aggrieved by the proceedings of the commissioners appointed as aforesaid, he, she, or they conceiving themselves so aggrieved, shall apply to the court of common pleas, in the manner directed in the first section of this act, which is hereby directed to appoint double the number of commissioners as were appointed for the proceedings complained of, a majority of whom, after giving notice, hearing the parties, and viewing the premises, as before directed, may, and they hereby are empowered and directed to make a different order of maintenance or division, as to the bank and works; and alter, shut up, or relay the water-courses, at their discretion, in such manner as to them may seem most beneficial for the safety and improvement of the meadows, and just and equitable between all parties concerned; and likewise alter the place of making and repairing any banks or works, whenever such alteration may become necessary, by wash, breaches, or otherwise; and make a certificate thereof, in manner aforesaid, which certificate, as well as all other certificates of laying out the banks, works, and watercourses, or either of them, or of dividing into shares any banks, works, and watercourses, shall be recorded in the road book, by the clerk of the court as aforesaid.

Sudden  
breaches,  
how repaired.

18. *And be it further enacted*, That in all cases where sudden breaches may happen, or other circumstances render immediate repairs necessary, either where the banks and works are under the direction of managers, or divided into parts to be maintained by the different owners or occupiers, and the manager or managers, owner or owners, or occupiers, whose duty it is to stop or repair the same, shall neglect or refuse to stop such breach or breaches, or make the repairs immediately necessary, then, and in all such cases, it shall and may be lawful for any owner or owners, or possessors, to enter upon the premises, and make the necessary repairs, in the same manner, and under the same restrictions, as the manager or managers, owner or owners, or occupiers, are by this law directed and empowered to do and perform the same, and recover the expense attending such repairs in any court wherein the same may be cognizable, with costs, from the person or persons, or managers, whose duty it was to do and perform such repairs.

19. *And be it enacted*, That if any owner or possessor of any

meadow, lying in company, or any other person, by his or her order, shall wilfully cut his or her bank or dam, or open his or her floodgate, or sluice or sluices, and thereby let in the tide, at any time between the first day of April and first day of December, in any year hereafter, without the consent of the other owner or owners, or possessors, of meadows lying within the same bank or dam, and thereby damage the property of his or her neighbours, such person or persons, so offending, shall make good all damages occasioned thereby, to be adjudged by two or more freeholders, chosen by the parties, and recovered by the owner or owners, or possessor or possessors, receiving the damage, in any court in which the same may be cognizable, with costs of suit.

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Owners damaging the bank, to make it good.

20. *And be it enacted*, That in all cases where banks or dams are maintained by a tax, and divided from the adjoining meadows by a lawful fence, ditch, or drain, made and repaired at the expense of the company, if any owner or occupier shall put or keep on, or suffer to be put or kept on the part of the bank or dam assigned as his or her part to occupy, any horses, horned cattle, or swine, by his or her consent or order, contrary to the directions of the manager or managers, and thereby damage the bank, dam, or works, such owner or occupier, so offending, shall make good all damages occasioned thereby, to be valued by two freeholders of the township, to be chosen, one by the managers or manager, and the other by the offender; and if the person so offending shall neglect or refuse to join in the choice, then, and in such case, the manager or managers shall choose both; and if the two so chosen cannot agree, they shall choose a third, any two of whom shall value the damage; which damage shall be recovered by the managers or manager from the person who had offended as aforesaid, and applied towards repairing the bank or other works, under the direction of the managers; *provided always*, that nothing herein contained, except the twentieth section of this act, shall extend to interfere with any private law heretofore passed, or any agreement heretofore made for banking and draining of meadows, without the consent of all persons concerned therein.

Horses, etc., not to be put on the bank contrary to directions of managers.

To what banks and drains this act shall not extend.

21. *And be it enacted*, That the fees to be paid for the different services required by this act, shall be as follows:

Fees for services.

To the court, for appointing commissioners and giving a certificate, or for hearing the applicants where no certificate is granted, the sum of ten shillings.

To the clerk of the court, for recording the certificate of the appointment of commissioners, seven pence per sheet, allowing ninety words to a sheet.

And to each of the commissioners, seven shillings and six pence

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per day, for every day he may be employed in laying out the banks, works, and watercourses, to be paid by the applicants; but in all cases where the banks, works, and watercourses, or either of them, are maintained by a tax, the above costs shall be paid by the treasurer of the company; and the receipts of the court, clerk, and commissioners, shall be sufficient vouchers for so much of the company's money.

REV. 529. II....A supplement to an act entitled, "An act to enable the owners of tide swamps and marshes, to improve the same, and the owners of meadow already banked in, and held by different persons, to keep the same in good repair," passed the twenty-ninth day of November, one thousand seven hundred and eighty-eight.

Passed November 27, 1806.

Acceptance  
of act, how  
to be certi-  
fied.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That it shall be lawful for the owners or possessors of two-thirds of any body of meadow, who have subjected, or shall subject themselves to the before recited act, and in all cases where the commissioners have, or may lay off to each owner or possessor their proportion of such bank, sluices, waterworks, and watercourses, to uphold and maintain, to certify under their hands, to the clerk of the court of the county in which such meadow shall lie, that they have agreed to become subject to this supplement; which certificate it shall be the duty of such clerk to record in the road book of such county, for which he shall receive the same fees per sheet as are allowed by law for the recording of deeds.

Meeting to  
choose ma-  
nagers and  
clerk.

2. *And be it enacted,* That after such a certificate shall have been recorded as aforesaid, it shall be lawful for any owner or possessor to call a meeting of such company, by serving each owner or possessor with a notice in writing, or leaving the same at his or her dwelling-house or usual place of abode, setting forth the time and place of such meeting; at which time and place the said company shall, by plurality of voices of those who shall meet, proceed to the choice of two managers, being owners or possessors in the said company, to continue for the term of one year, or till others shall be chosen; and in case of the death, removal or disability of any manager chosen in manner aforesaid, a meeting of the company may be called, in the manner herein before directed, for the purpose of choosing a manager to supply such vacancy; and every manager so chosen shall be vested with the same powers, perform the same duties, and be subject to the same penalties, as if he had been elected in the manner herein before mentioned, or at any annual meeting of the company: and the said company shall choose

a clerk in the same manner as managers are hereby directed to be chosen, who shall record all their proceedings in a book to be provided for that purpose; and every manager, in performing any of the duties in this act required, shall receive one dollar per day, and in case of neglect or refusal to perform such duties, after being thereunto required, he shall forfeit and pay for every such neglect or refusal the sum of fifteen dollars, to be recovered by action of debt, by any owner or possessor who shall sue for the same, to be applied toward the support of the sluices and waterworks of the company.

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Fees and penalties.

3. *And be it enacted*, That it shall and may be lawful for all managers appointed agreeably to this act, to view the banks, waterworks and watercourses, and to see that they are kept in good repair, and if any owner or possessor shall neglect or refuse to repair his or her bank, waterworks, or watercourses, laid off to him or her as aforesaid, then it shall be lawful for the manager or managers, after five days notice in writing being given to such owner or possessor, to enter on the premises, and do all such repairs as may be necessary: and it shall be the duty of the managers to stop, mend, or put up, any breach in the bank of any owner or possessor without delay, if the person having such breach shall not immediately proceed to stop the same; and in performing any of the said duties, he shall do as little injury to the owners of the soil as possible: and it shall be the duty of the managers to erect any wharf or wharves that may be necessary for the preservation of the bank, and to cause the bank to be mowed and kept clear of brush and rubbish.

Duties of managers.

4. *And be it enacted*, That when any manager, appointed as aforesaid, shall have done any repairs to the bank, waterworks or watercourses, or have stopped any breach in the bank, or erected any wharf or wharves for the preservation of the bank of any owner or possessor, so laid off to him or her to maintain and uphold, he shall within ten days after the completing thereof, present his account for such repairs, to such owner or possessor, which account shall be attested by his oath or affirmation, if required; and if such owner or possessor shall neglect or refuse to discharge the same within twenty days thereafter, then it shall be lawful for such manager, on five days notice being given by public advertisement in five of the most public places in the neighbourhood, to sell at public vendue, so much grass as may be on said owner's or possessor's meadow as will be sufficient to discharge such demand; but if the grass on the meadow should not be sufficient to satisfy the same, then to lease at public vendue, as aforesaid, so much of the meadow of such owner or possessor as will be sufficient to dis-

Accounts for repairing, how to be recovered.

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Further duty of managers.

charge such demand, with reasonable cost, to any person who will pay such demand for the shortest term; and it shall be lawful for such manager to make and execute a lease to such purchaser for such term, which said lease shall be good and effectual in law, and shall vest the possession thereof in the purchaser, and bar the owner and all others during the term. And in all places where a sluice, dam, stopping, or waterworks, is or shall be laid off, to be supported or upheld by a certain portion of said meadow, or the owners or possessors thereof, it shall be the duty of any manager, appointed as aforesaid, to stop any breach in such dam, and to erect and lay any new sluice or erect any other waterworks that may be necessary, and to keep the whole in good repair; and to enable such manager to do and perform the same, it shall be lawful for him to make assessments from time to time on the valuation of each owner's or possessor's meadow, made by the commissioners under the before recited act; and in case any owner or possessor shall neglect or refuse to pay or discharge the sum for which he or she may be so charged on any such assessment, then it shall be lawful for the said manager to proceed against him or her for the recovery thereof, in the manner herein before mentioned, or by action of debt, in which case he shall produce the assessment in evidence; and it shall be necessary, in either case, before he shall proceed, that his account shall be attested by his oath or affirmation; and that every such manager shall, at the annual meeting of the said company, produce such assessment, together with an account of his expenditures for the preceding year, and pay over the balance, if any in his hands, to the succeeding manager or managers, to be appropriated to the purposes for which such assessments were made.

When act to become a law.

5. *And be it enacted*, That in all cases in which the operation of this supplement shall be commenced in the manner directed in the first section, it shall become a law of this state, any thing in the before recited act, to which this is a supplement, or any law, usage or custom to the contrary notwithstanding.

REV. 655. III....A supplement to the act entitled, "An act to enable the owners of the tide swamp and meadows already banked in, and held by different persons, to keep the same in good repair."

Passed February 10, 1819.

Cross or line banks repaired.

BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That in all cases where there are or may be any cross or line banks between two or more companies created by virtue of the act to which this is a supplement, it shall and may be lawful for the managers of either company to enter upon said cross or line bank, and repair

and keep up the same, in such manner as to prevent the water from passing and re-passing through or over said bank; *provided*, that nothing herein contained shall interfere with any contract or agreement heretofore made, or which shall be made, in relation to cross or line banks as aforesaid.

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IV....A further supplement to the act entitled, "An act to enable the owners of tide swamps and marshes, to improve the same, and the owners of meadows already banked in, and held by different persons, to keep the same in good repair," passed the twenty-ninth day of November, in the year of our Lord one thousand seven hundred and eighty-eight.

HAR. 198.

Passed January 22, 1829.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That when any tract of marsh or swamp is exposed to the overflow of the tide, and the same may admit of a division, by one or more cross-banks, into separate parts, it shall be lawful for the owners of two-thirds of any part of said marsh which may be justly separated from the rest, by a cross-bank, to apply to the court of common pleas of the county in which such marsh doth lie, as directed by the first section of the act to which this is a supplement; upon which said court is required to appoint three or more judicious and disinterested men, well acquainted with banking and improving tide meadows, as commissioners, who shall view the premises, hear the parties applicant, and others interested; and, if they think proper, lay out the cross-bank as applied for, together with the other necessary banks, sluices and floodgates, and works requisite for securing the marsh or swamp from the overflow of the tide, in such place and places, and direction, as may appear reasonable and most safe and beneficial to the owners of such part of the marsh and swamp which is proposed to be secured from the overflow of the tide, subject to the like rules, regulations, and proceedings as required by the act and supplements to which this is a further supplement.

Cross-banks,  
how to be  
laid out, etc.

2. *And be it enacted,* That it shall and may be lawful for the owners and possessors of any meadow already banked in, or that may hereafter be banked in, to meet and assemble statedly, on such day in the month of April, yearly and every year, at one o'clock in the afternoon, and at such place as a majority of those met at the first meeting, or at the last preceding annual meeting, may from time to time have appointed, and there, between the hours of one and five in the afternoon, by ballot or otherwise, and plurality of votes of those met, appoint managers, a treasurer, and clerk, to continue for

Time of annual meeting.

Officers.

TIT. XXIV. one year or until others are appointed to fill their places, and to  
CHAP. 1. settle the accounts of the company.

Revaluation, when and how made. 3. *And be it enacted*, That whenever the owners and possessors of two-thirds of the marsh, meadow ground, and swamp, lying within the bounds of any meadow bank company, shall agree to a revaluation and assessment of the several lots and parcels of such marsh, swamp, and meadow ground, it shall and may be lawful for the owners and possessors of the same company, at a special meeting to be held for such purpose, notice of which said meeting shall be given by the managers or clerk of the company, by putting up advertisements thereof in three or more public places near the premises, setting forth the time and place of meeting, to choose by ballot or otherwise, three or more indifferent and disinterested men, to revalue all the marsh, swamp, and meadow ground secured by the bank or dams from the overflow of the tide; and the managers of the said company are hereby required to make out all subsequent duplicates and assessments agreeably to such revaluation.

Owners of marshes may cause them to be overflowed. 4. *And be it enacted*, That it shall and may be lawful for the owners and possessors of any tract of marsh, swamp, or meadow ground, lying within the bounds of any meadow bank company, organized or to be organized under the provisions of the act to which this is a supplement, to cause the same to be subjected to the overflowing of the tide, in such manner, and for such time or times, as the same company shall, at their annual meetings, direct and appoint; *provided always*, that the owners of at least three-fourths of such marsh, swamp, or meadow ground shall vote or agree to such overflow.

Proviso. 5. *And be it enacted*, That such part or parts of the act and supplements, to which this is a further supplement, as comes within the purview of this act, and is contrary to the provisions thereof, be, and the same is hereby repealed.

What repealed. HAR. 386. V....A further supplement to an act entitled, "An act to enable the owners of tide swamps and marshes, to improve the same, and the owners of meadows already banked in, and held by different persons, to keep the same in repair," passed the twenty-ninth day of November, one thousand seven hundred and eighty-eight.

Passed March 7, 1832.

Commissioners to make a map showing the number of acres held by each owner. 1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the commissioners appointed by the court, agreeably to the first section of said act, shall be authorized and required, after they shall have laid out the said banks, dams, sluices, and other waterworks, to cause a plot, map, or duplicate to be made, showing the

quantity and number of acres held by each person, respectively, as nearly as practicable from former surveys, duplicates, or other sources of information; that the said plot, map, or duplicate, shall be signed by a majority of the said commissioners, and placed in the hands of the managers that may be first chosen, there to remain until the water shall have been stopped off said meadow; said plot, map, or duplicate to be received as sufficient evidence of the quantity of acres belonging to each owner or possessor, and all assessments and votes, prior to the assessment and valuation made under the fourth and fifth sections of the act to which this is a supplement, shall be governed thereby; *provided always*, that nothing in this act shall be construed so as to prevent the stopping of any creek or river, which has been heretofore stopped by the act to which this is a supplement, or any other act of the legislature.

TIT. XXIV.  
CHAP. 1.

Proviso.

2. *And be it enacted*, That, for the security of all moneys assessed or expended by virtue of this act or supplement, all the marsh or meadow enclosed by said bank or banks, laid out as aforesaid, shall be pledged and bound for the payment thereof, and be collected according to the sixth section of the said act, to which this is a further supplement.

Meadow  
pledged for  
payment of  
expenses.

3. *And be it enacted*, That if, after the meadow or marsh is drained, and a measurement and valuation had, according to the fifth section of the act to which this a supplement, it shall appear that any of the owners or possessors have paid more than their ratable proportion of taxes, to defray the expenses of all prior improvements, then the said managers shall assess the same upon those owners or possessors who have not paid their equitable proportion, in such manner as shall to them appear just, and, with the moneys thus raised, refund to each individual the sum or sums by him or her overpaid, with interest for the same.

Surplus to  
be refunded  
to owners  
who have  
overpaid.

4. *And be it enacted*, That in all cases of an election for officers, or for other purposes, the mode of voting shall be in person or by proxy in writing, duly executed, in the following ratio: every person owning or possessing meadow or marsh in the said company, as described by the said commissioners, shall be entitled to one vote for any quantity, not exceeding five acres, which he, she or they may possess, and one vote for each and every five acres, not exceeding twenty acres, and one vote for each and every additional ten acres.

Manner of  
voting at e-  
lections.

5. Repealed.

HAR. 413.

6. *And be it enacted*, That any person or persons, owning meadow already banked in, or that may hereafter be banked in, by virtue of the act to which this is a supplement, where the water-courses and sluices are not sufficient to drain the same, and the

How sluices  
and water-  
courses may  
be laid.

TIT. XXIV.  
CHAP. I.

company cannot agree on laying out and making sufficient watercourses and sluices, he, she or they having meadow so situate may apply, according to the provisions of the act to which this a supplement, for the appointment of commissioners to lay out and direct the erection of such watercourses, sluice, sluices or flood-gates as they shall deem necessary to drain the same.

1838-9.  
PAMPH. 129.

VI....A further supplement to the act entitled, "An act to enable the owners of tide swamps and marshes, to improve the same, and the owners of meadows already banked in, and held by different persons, to keep the same in repair," passed the twenty-ninth of November, seventeen hundred and eighty-eight.

Passed March 5, 1839.

Preamble. WHEREAS, by the fourteenth section of the act to which this is a further supplement, it is enacted, that it shall and may be lawful for the manager or managers, or a majority of them, to dig, or cause to be dug, mud, sand, or other earth, for erecting and repairing the banks and other works, from time to time, in such places as shall be most convenient to the banks and works under his or their direction, and least detrimental to the owners of the soil;— and whereas it frequently happens that individuals owning lots of meadow and marsh near to and adjacent to such banks and works so wanting repair, as aforesaid, are greatly damaged by reason of the digging up and conveying away their soil without just compensation—therefore,

Compensation for materials.

How ascertained.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That when the manager or managers of any meadow company organized agreeably to the provisions of the act to which this is a further supplement, shall dig, or cause to be dug, any mud, sand, or other earth, within the bounds of such meadow company, and within the bank securing, or intended to secure, the meadows and marsh of such company from the overflow of the tide, then, and in that case, such manager or managers, or his or their successor or successors, shall pay, or cause to be paid, to the person or persons so damaged as aforesaid, a reasonable compensation for the same; and in case the said manager or managers cannot agree with the owner or owners of the soil, as to the amount of damages sustained, the said manager or managers shall choose one disinterested freeholder resident in the township in which the damage was sustained, and the owner or owners of the soil shall choose another disinterested freeholder resident as aforesaid, which two parties shall choose a third disinterested freeholder resident as aforesaid; and the three per-

sons so chosen, shall view the premises and assess the damages sustained as aforesaid; and their decision, or the decision of a majority of them, put in writing under their hands, shall be binding and conclusive on the parties.

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2. *And be it enacted*, That it shall be the duty of the said manager or managers, within ten days after a copy of the said decision shall have been served upon him or them, to pay to the owner or owners of the said soil the damages so ascertained, and also to pay the expenses and compensation of the said freeholders; and in case he or they shall neglect or refuse so to do, the said owner or owners may maintain an action, and recover judgment against him or them for the amount thereof, with costs, in any court of competent jurisdiction; and that the amount of the damages, expenses, and compensation, which shall be paid by any such manager or managers, in pursuance of this act, shall be allowed and credited to him or them, in the settlement of his or their accounts.

Damages to be paid.

## CHAPTER 2.

### OF DRAINING SWAMP OR MEADOW GROUND.

- |  |                                      |
|--|--------------------------------------|
| 1. How ditches, etc., laid out.          | 6. How and when to be opened.        |
| 2. Interested surveyors, etc., excluded. | 7. Dams, etc., made and repaired.    |
| 3. When ditch, etc., in two counties.    | 8. Ditches, etc., laid out on lines. |
| 4. Fees of surveyors and freeholders.    | 9. Of general assessments.           |
| 5. Damages to be assessed.               | 10. Surveys, when to be made.        |
| 6. Parts to be allotted.                 | 11. Party aggrieved may appeal.      |

#### II....SUPPLEMENT.

- |                                  |                           |
|----------------------------------|---------------------------|
| 1. Notice of meeting necessary.  | 2. Neglect, how punished. |
| 2. Labour apportioned to owners. | 3. Repealer.              |

#### III....SUPPLEMENT.

- |                             |                                   |
|-----------------------------|-----------------------------------|
| 1. How banks to be renewed. | 4. Of enclosures and cattle.      |
| 2. Lands resurveyed, etc.   | 5. Remedy for neglect to fence.   |
| 3. Appraisalment of labour. | 6. What streams not lawful fence. |

#### IV....SUPPLEMENT.

- |                                    |                           |
|------------------------------------|---------------------------|
| 1. Ditches, etc., may be reviewed. | 2. When act takes effect. |
|------------------------------------|---------------------------|

I....An Act to enable the owners of swamp or meadow ground, to drain the same, and to repeal a law heretofore made for that purpose.

REV. 128.

Passed November 24, 1792.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That from and after the passing of this act, it shall and may be lawful for any person or persons, who may have any meadow, or land improved, or capable of being improved into meadow, lying or being

Surveyors of the highways and chosen freeholders empowered to view the land, etc.

TIT. XXIV.  
CHAP. 2.

so situated as that it cannot be drained sufficiently for the effectual improvement of the same, without clearing out creeks or natural watercourses, or cutting into or through the meadows or other lands belonging to or in possession of such person or persons as will not join in cutting, clearing creeks, or natural watercourses, or permit a sufficient ditch or drain to be cut and kept open into or through the same, to apply to the two surveyors of the highways and the two chosen freeholders of the township in which the land doth lie, who are hereby directed and required, upon ten days notice given for that purpose, as well to the person through whose land or possession the said ditch is proposed to be cut, or creek or natural watercourse cleared, as to the surveyors and freeholders, particularly specifying the time and place of meeting to view the premises; when they, or a majority of them, in case the ditch or drain, or clearing the creek or watercourse, applied for shall appear necessary and reasonable, shall lay out such ditch, drain, or watercourse, as in their judgment shall be sufficient for the purpose, and in such place or places as will be most proper for draining the said meadow or land, with as little detriment, however, as may be to the owner or possessor of the premises through which the said ditch, drain, or watercourse may run or be laid, causing a proper return of such ditch, drain, or watercourse to be made, describing the beginning and several courses and distances thereof, from an actual survey made by a surveyor, and signed by him and

Survey to be recorded.

the aforesaid surveyors of the road and freeholders; which actual survey shall be recorded in the clerk's office of the county, who shall be entitled to receive three shillings for the same; and the record thereof may be given in evidence in any court of law; the expenses thereof to be paid by the owners or possessors, in proportion to the benefit they may receive thereby.

How expenses to be defrayed.

Surveyor or freeholder interested, to whom application made.

2. *And be it further enacted,* That in case any or either of the surveyors or freeholders aforesaid should be interested, either for or against the watercourse applied for, application shall be made to any other surveyor or freeholder of the same county, chosen as aforesaid, being disinterested and living nearest to the premises, who is and are hereby directed and required, upon notice as aforesaid, to attend in the room and stead of him or them so interested, and to do and perform the same duties, as if he or they resided in the township where the ditch or drain, or clearing of a creek or watercourse, shall be applied for.

When water-courses in two townships, surveyors and freeholders of both to be called.

3. *And be it further enacted,* That whenever any such creek, ditch, drain or natural watercourse is necessary for the improvement of lands as aforesaid, shall happen to be in or on a line between two townships, or leading out of one township into another,

it shall and may be lawful for the person or persons applying, and he, she or they is and are hereby required to call the surveyors of the highways and chosen freeholders of both the said townships, who, when met, or a majority of them, shall proceed in the same manner as is before directed for the chosen freeholders and surveyors of the highways of a township to proceed; and the decree of them, or a majority of them, shall be equally binding upon all parties; *provided always*, that nothing contained in this act shall empower the surveyors and freeholders aforesaid, to lay any water-course through a milldam or other works, erected for the accommodation of a mill or the manufacturing of iron.

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CHAP. 2.

Act not to  
affect mill-  
dams, etc.

4. *And be it further enacted*, That there shall be allowed to the surveyors and freeholders, for the time they may respectively be employed in performing the duties enjoined them by this act, the sum of seven shillings and sixpence a day each, to be paid by the person or persons requesting such service; and in case either of the surveyors or freeholders, appointed for laying out or clearing the ditches, drains, creeks or watercourses herein before mentioned, shall neglect or refuse to do and perform the duties enjoined him by this act, he, so offending, shall forfeit and pay, for every such neglect or refusal, the sum of three pounds, to be recovered in an action of debt, by the party applying, to and for his use.

Fees of sur-  
veyors and  
freeholders.

Penalty for  
neglect.

5. *And be further it enacted*, That in all cases where ditches or drains shall be laid into or through the land of any person or persons, not benefited by, or requesting such ditch or drain, or clearing a watercourse, that the surveyors and freeholders, laying out the same, shall be and they hereby are required to assess the damage the owner or owners of land damaged may sustain thereby, and also the quota each person shall bear, who shall be benefited thereby; which assessment or quota shall become a legal debt, and be immediately paid by each person so assessed, to the person or persons injured.

Damages to  
be assessed.

6. Repealed by supplement, sec. 3.

7. *And be it further enacted*, That whenever water, conveyed in ditches, drains or watercourses as aforesaid, shall be carried or vented through gates, dams or sluices, or other works, that then all persons interested in such ditches, drains or watercourses, shall bear such a share or proportion of the expense of keeping such dams, sluices or works in repair, as shall be fixed and determined by the surveyors and freeholders laying out such drains as aforesaid, in all cases where the surveyors and freeholders shall judge a proportion of such expenses ought to be borne by the owners of land drained as aforesaid.

Dams, sluic-  
es, etc., how  
to be made  
and kept in  
repair.

TIT. XXIV.  
CHAP. 2.

Ditches and watercourses to be laid on lines between proprietors.

How assessments made and collected on proprietors' lands.

Survey of land to be made, when necessary to apportion the expense.

Party aggrieved may appeal.

8. *Provided always, and be it further enacted*, That in all cases where ditches, drains or watercourses shall be laid out pursuant to the directions of this act, the same shall be on lines between proprietors of land, where the same can be done with convenience to all parties concerned.

9. *And whereas* there are large tracts of land unimproved, and lands held in common by the general proprietors in this state, by means whereof it will be difficult to recover the assessments and expenses directed by this act in case of default—*be it therefore further enacted*, that it shall and may be lawful, for the recovery of the said assessments and expenses, for any person or persons entitled to recover the same, upon his or their giving notice, by advertisement, of the sum assessed or expenses adjudged, in three or more public places in the county where the lands lie, and in one or more of the newspapers of this state, for the space of six weeks, and the general proprietors refusing or neglecting to discharge the same, the party entitled to receive the same, may make return of such delinquents to one of the judges of the inferior court of common pleas for the county, who shall enter judgment against such delinquent proprietor for such assessment, which judgment shall be filed in the clerk's office of the county, as of record, and writ of execution shall issue and be recorded by the clerk against the lands of the said delinquents, directed to the sheriff of the county, to make sale and dispose of so much of said lands, as near as may be, as will be sufficient to discharge the said assessment or expenses; and if upon such sale there should be any overplus, the said person or persons so prosecuting are hereby declared to be accountable for the same to the general proprietors, their agent, or attorney.

10. *And be it further enacted*, That in order the more fully to enable the surveyors and freeholders, appointed as aforesaid, to allot to each person concerned his or her just proportion of such ditch, drain, or watercourse, to clear, make, support and keep open, they be empowered and directed, whenever they deem it necessary, to cause actual surveys to be made of the quantity of meadow or swamp held by each owner or possessor, that is benefited thereby, the expense thereof to be paid by each owner and possessor in proportion, as before directed.

11. *And be it further enacted by the authority aforesaid*, That if any person or persons shall think themselves aggrieved by any assessments made by virtue of this act, that on payment of such assessment, he, she, or they may appeal to the next court of common pleas, to be held in and for the county in which such assessment is made, which court is hereby authorized to decide thereon,

by making abatement or otherwise, as shall appear equitable and just. TIT. XXIV.  
CHAP. 2.

12. Repealer.

II....A supplement to the act entitled, "An act to enable the owners of swamp or meadow ground, to drain the same, and to repeal a law heretofore made for that purpose," passed the twenty-fourth day of November, seventeen hundred and ninety-two. HAR. 174

Passed February 25, 1828.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That in addition to the notice required to be given in and by the first section of the act to which this is a supplement, ten days notice shall be given, by advertisement in one of the newspapers printed in this state, and circulating in the township or townships in which the meadow or land proposed to be drained is situated, and also by advertisements, set up in five public places in each of said townships, specifying the time, place, and purpose of the meeting of the surveyors of the highways and chosen freeholders; on the legality of which notices, the said surveyors and freeholders, when met, may decide, and their decision shall be final and conclusive. Ten days notice to be given of meeting of owners.

2. *And be it enacted,* That the said surveyors and freeholders, who shall concur in laying out any ditches or drains, or clearing any watercourses, as mentioned in the act to which this is a supplement, shall, at the same time, allot to each person interested therein, whether the said ditch, drain, or watercourse shall be laid into or pass through his or her meadows or lands, or not, the part or parts thereof which he or she shall clear, make, support, and keep open; which part or parts, so allotted, he or she, or his or her heirs or assigns, shall for ever thereafter be empowered and obliged to make, open, and clear out, from time to time, whenever the same may be necessary; and if any person or persons shall neglect or refuse to make, repair, and keep open his, her, or their proportion or allotment of such ditch, drain, or watercourse, after having been notified in writing, twenty days, to do so, by any person or persons benefited or to be benefited by the said ditch, drain, or watercourse, then and in such case, at any time after the expiration of the said twenty days, such person or persons so giving notice, may make, open, and clear out the part or parts of the said ditch, drain, or watercourse allotted to the said person or persons so neglecting or refusing, doing as little damage to the owners or possessors of the said land or meadow, as the nature of the case will admit of; and may recover the expenses thereof, from the person or persons so neglecting or refusing as aforesaid, in an action Apportionment of labour among owners, etc.

TIT. XXIV.  
CHAP. 2.  
Proviso. of debt, with costs of suit; *provided always*, that in all cases where ditches, drains, or watercourses, laid out as aforesaid, shall be on lines between different proprietors, the mud, earth, and rubbish shall be cast equally on each side, except the owners or possessors, by agreement, shall otherwise determine.

3. Repealer.

HAR. 344. III....A supplement to the act entitled, "An act to enable the owners of swamp or meadow ground, to drain the same, and to repeal a law heretofore made for that purpose," passed twenty-fourth November, seventeen hundred and ninety-two, and for other purposes relating to fences.

Passed February 14, 1831.

Owners of meadows within the former act, may apply to the surveyors, etc., to apportion the work.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the passing of this act, it shall and may be lawful for any person or persons, who may have any meadow or land improved, or capable of being improved into meadow or pasture, or arable lands, which hath heretofore been, or may hereafter be surveyed and laid out in ditches, drains, creeks, or watercourses, under and by the directions, and in conformity to the act to which this is a supplement, as often as the same may, from time to time, require to be renewed, ditched, cleared out, and effectually repaired, to apply to the two surveyors of the highways, and the two chosen freeholders of the township in which the land doth lie, who are hereby directed and required to proceed to view and examine the premises so laid out as aforesaid, and which are wanting to be renewed, ditched, cleared out, and effectually repaired, and to take, order, and direct how and in what manner, and in what proportions, the same shall be done by each owner or occupant of any such meadow or swamp lands; and shall in all things be governed by the directions contained in the act to which this is a supplement; and shall be entitled to the same fees, and be subject to the same penalties, as are provided for in the act to which this is a supplement.

Fees, etc.

Lands to be resurveyed.

2. *And be it enacted*, That whenever any person or persons shall apply to the surveyors of the highways and the chosen freeholders, as aforesaid, and have given the notice required by law, of the time and place of such meeting, it shall be the duty of such person or persons to produce to the said surveyors and holders a certified copy from the clerk of the county, of the actual survey of such lands as shall be recorded in the clerk's office of the county, and which it is intended to have the ditches, drains, creeks, and watercourses renewed, cleared out, and effectually repaired, and

also to furnish a competent surveyor, with compass and chain, to re-  
 survey and mark out said meadow or swamp lands, agreeably to  
 the said original survey and the directions of said surveyors of the  
 highways and the chosen freeholders, who shall thereupon allot to  
 each person interested therein, the part or parts thereof, he or she  
 shall clear, make, support, and keep open, and in what manner  
 and at what times the work shall be done; and if any person or  
 persons, owners of land and meadow directed to be drained as  
 aforesaid, shall neglect to make, repair, and keep open his, her, or  
 their proportion or allotment of said ditch, drain, or watercourse,  
 that then, and in such case, any one or more of the owners of such  
 land or meadow may make, open, and clear out the said ditch,  
 drain, or watercourse, from time to time, and recover the expenses  
 thereof from the person or persons neglecting to do the same, by  
 a sale of the wood, grass, herbage, or pasture on said land or mea-  
 dow which shall be so ditched and drained.

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 CHAP. 2.

Allotment of  
 work to each  
 owner.

How to pro-  
 ceed for ne-  
 glect.

3. *And be it enacted*, That whenever it shall be necessary to sell  
 the wood, grass, herbage, or pasture, on any such land and mea-  
 dow as aforesaid, it shall be the duty of any one of the said sur-  
 veyors of the highways, or chosen freeholders of the township in  
 which the said land or meadow hath been so drained, as aforesaid,  
 and who is no ways interested therein, to go upon the ground and  
 view and appraise such opening, draining, clearing out, and ditch-  
 ing of such land or meadow, in presence of the owner thereof, if  
 he, she, or they will be present upon notice given them, if easily  
 to be found, and then and there to assess the amount due for such  
 work, and one dollar for his services, all of which he shall certify  
 in writing, under his hand and seal; and the person having done  
 such work, shall thereupon file the said certificate before some jus-  
 tice of the peace of the county where the land lies, who shall  
 thereupon enter judgment for the sum so appraised or assessed,  
 with costs, and grant execution thereon, for the sale of so much of  
 the wood, grass, herbage, or pasture, or any such land and meadow  
 as is contained in the certificate aforesaid, as will pay said judg-  
 ment and costs; *provided*, that no such appraisement or assessment  
 shall be made more than once in six years.

Appraise-  
 ment of la-  
 bour neglect-  
 ed to be  
 done.

How to be  
 recovered.

Proviso.

And whereas, there are large tracts of land which lie adjoining on  
 rivers, creeks, and streams of water, or otherwise held by differ-  
 ent owners, and not easily fenced in separate lots, but which  
 might be enclosed in common under safe and easy regulations—  
 therefore,

Preamble.

How to pro-  
 ceed to en-  
 close lands  
 of several  
 owners lying  
 contiguous  
 to creeks,  
 etc., in a  
 common  
 fence.

4. *And be it enacted*, That it shall and may be lawful for any  
 persons having lands so situated, and when the owners of two-thirds  
 of such lands shall agree to fence the same, to apply to the two

TIT. XXIV.  
CHAP. 2.

surveyors of the highways and the two chosen freeholders of the township in which the land doth lie, who are hereby directed and required, upon ten days notice given for that purpose, as well to the persons owning or in possession of said lands intended to be fenced, particularly specifying the time and place of meeting, to view the premises, and when the lines of such lands are not known, then they, or a majority of them, shall cause an actual survey of said lands to be made by a surveyor, and a map and return thereof shall be recorded in the clerk's office in the county where the land lies; and shall thereupon mark out, determine, and fix upon the distance and kind of fence each owner or occupant of such tract of land shall make and maintain of such outside or boundary fence; and also to assign to each one of said owners or occupants, his, her, or their proportion of horses, cattle, or sheep, that may run at large and be pastured thereon; and the time or times when no such horses, cattle, or sheep shall be suffered to run thereon; and the amount of damage each one shall pay for a breach of any such regulations; all of which said allotment of fence and regulations shall be made out in writing, and signed by the said surveyors and freeholders, and recorded in the clerk's office of the county, a certified copy of which, shall be received in evidence in any court of record in this state; *provided always*, that nothing herein contained shall be construed to prevent any person or persons from enclosing, with a lawful fence, his, her, or their lands separate and apart, so as not to be subjected to any of the conditions of this act, in relation to fences.

Each owner to have assigned the number of cattle, etc., which may run on the enclosed pasture.

Proviso.

How to proceed when any of the owners neglect to fence

5. *And be it enacted*, That if any person or persons, owners or occupants of any such tract of land, as shall be ordered to be so enclosed, who shall refuse or neglect, for the space of six months after notice in writing shall have been served upon him, her, or them, it shall and may be lawful for any one of the said owners to make, amend, keep up, and repair such person's or persons' part or allotment of said fence or enclosure, and have and enjoy his, her, or their proportion of the pasture of such horses, cattle, or sheep that may be allotted to the owners of such lands as shall neglect or refuse to fence the same, so long only as such owner or occupant shall neglect to pay a reasonable compensation for such fencing or enclosure, or shall not enclose his, her, or their lands separate and apart from such lands held in common.

What navigable streams are not lawful fences.

TIT. xv.

6. *And be it enacted*, That no river, creek, pond, or navigable stream, where the tide ebbs and flows, so as to leave less than three feet depth of water therein at low tide, shall be adjudged or deemed a lawful fence within the meaning of the act entitled, "An act regulating fences," passed the twenty-third day of January, A. D. seventeen hundred and ninety-nine.

7. *And be it enacted*, That nothing herein contained, shall be construed as repealing any part of the act to which this is a supplement, or the act entitled, "An act regulating fences," passed the twenty-third of January, seventeen hundred and ninety-nine. TIT. XXIV. CHAP. 2.

IV....A supplement to the act entitled, "An act to enable the owners of swamp or meadow ground, to drain the same, and to repeal a law heretofore made for that purpose," passed the twenty-fourth day of November, in the year of our Lord one thousand seven hundred and ninety-two. 1837-8. PAMPH. 156.

Passed February 24, 1838.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That in any case where a ditch, drain, or watercourse has heretofore been, or shall hereafter be laid out and opened, pursuant to the act to which this is a supplement, for the period of one year, it shall be lawful for any owner or possessor of any land drained thereby, or through which the same shall be cut or run, or the water flow, to apply to the surveyors of the highways and chosen freeholders for the time being, to review the premises, proceeding therein in all respects as by the said act is required to be done to lay out the ditch, drain, or watercourse; and the said surveyors and freeholders, or a majority of them, shall have authority to alter, change, or abolish the said ditch, drain, or watercourse, as shall then appear to them to be just and reasonable, and to make a new assessment of damages, if they judge the same proper, proceeding in all respects as is required to be done in laying out said ditch, drain, or watercourse; *provided*, that if they shall abolish the said ditch, drain, or watercourse, instead of an actual survey, they shall make and sign a certificate to that effect, which shall be recorded in the clerk's office of the county. Ditches, etc., may be reviewed. Proviso.

2. *And be it enacted*, That this act shall take effect immediately after the passage thereof.

TIT. XXIV.  
CHAP. 3.

CHAPTER 3.

OF ROADS TO SALT MARSH OR MEADOW.

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|--------------------------------------|--|-------------------------|
| 1. Managers to be chosen.            |  | 4. Meeting of managers. |
| 2. Measurement, plot, and valuation. |  | 5. Their powers.        |
| “ Road kept in repair.               |  | 6. Make by-laws.        |
| 3. Meadows, how liable for expense.  |  | 7. Make new valuation.  |

HAR. 23. An Act to enable two-thirds of the owners in value of any body or tract of salt marsh or meadow, within this state, using a common road to the fast land, to support the same.

Passed November 18, 1822.

When and how managers, etc., are to be chosen.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That in case the owners of any body or tract of salt marsh or meadow, where roads to the fast land have been or hereafter may be laid out by law, or have been and hereafter may be established by contract, or by the consent of the proprietors, cannot agree to support and keep the same in good and sufficient repair, it shall and may be lawful for two-thirds of the owners in value thereof, after giving three weeks previous notice of their intentions, and the time and place of meeting, by advertisements set up in three of the most public places in the neighbourhood, to meet, and by a plurality of the votes of those so met, to choose such person or persons as they may think proper for manager or managers, treasurer, and clerk for the ensuing year, or until their next annual meeting; they shall likewise, at said first meeting, appoint three judicious and disinterested persons to value the said marsh or meadow belonging to each individual using said road, having regard not only to the value of said marsh or meadow, but also to the comparative benefit that may be derived to the owner, from the road so contemplated to be improved.

Measurement, plot, valuation, etc., to be made.

2. *And be it enacted,* That the manager or managers, when appointed as aforesaid, shall, as soon as may be, cause all the lots or parcels of marsh belonging to each owner to be carefully and strictly measured, and a draught or plot to be made, showing the quantity held by each owner, and the valuation made thereon, and shall thereupon make an estimate of the sum or sums of money which will be necessary to defray the expenses of the different services required by this law, and also of making and keeping the aforesaid road sufficiently good for hauling hay over, and shall assess the same ratably on said marsh, and shall state the said assessment in a regular duplicate, containing the names of the owners or possessors, the number of acres and parts of acres held by each, the sums assessed on them severally, and the time or times

Duplicate to be delivered to treasurer.

of payment, which duplicate shall be delivered by him or them to the treasurer appointed as aforesaid; and it shall be the duty of the manager or managers to keep in repair the said road, from time to time, as he or they shall think necessary; and the said manager or managers shall be accountable for any moneys remaining in his or their hands at the end of every year, or at the annual meeting; and if the said manager or managers shall refuse to pay such balance remaining in his or their hands, to his successor or successors in office, then such successor or successors shall sue for and recover the same, in an action of debt, with costs of suit.

TIT. XXIV.  
CHAP. 3.

Managers to  
keep road in  
repair, etc.

3. *And be it enacted*, That the treasurer, on receipt of said duplicate, shall in person, or by notice in writing left at the usual place of abode of each owner or possessor, demand of and from such owner or possessor, twenty days before the time of payment, the sums assessed as aforesaid; and if any of the said owners or possessors shall neglect or refuse to pay the sum assessed as aforesaid, for the space of twenty days after the time fixed for the payment thereof, it shall and may be lawful to and for the said treasurer to seize and rent out by public vendue, to the highest bidder, for so long a time, and no longer, as will be requisite, so much of the said marsh belonging to, or in the possession of said delinquent owner or possessor, as may suffice to discharge such assessment and all expenses attending the recovery thereof, having first advertised the same for the space of three weeks, in three of the most public places in the neighbourhood where the said marsh lies, may be sold.

Meadows  
may be rent-  
ed to pay as-  
sessment.

4. *And be it enacted*, That the owners and possessors of said marsh shall meet annually, after their first meeting, on the first Monday in May, at such places as they shall, by a majority of those met, appoint.

Managers,  
when to  
meet.

5. *And be it enacted*, That it shall and may be lawful for the said manager or managers, and he or they are hereby authorized and empowered, from time to time, to dig and take for the purposes aforesaid, any earth, mud or sod, in any part of the said marsh most convenient and least detrimental to the owners thereof, and to have free ingress and egress, for himself or themselves, his or their team or teams and workmen, through any part of said marsh, whenever he or they may deem it necessary.

Their pow-  
ers.

6. *And be it enacted*, That it shall and may be lawful for the owners and possessors of two-thirds of said marsh in value, at their annual meeting, to pass such by-laws respecting the pasturing of said marsh, as a majority of those so met may think proper.

By-laws may  
be passed at  
annual meet-  
ings.

7. *And be it enacted*, That a new valuation or assessment may be had every ten years, if two-thirds of the owners in value and possessors deem it necessary.

A new val-  
uation may be  
made every  
ten years.