CHAPTER xxxviii.

An Act to incorporate the North Level Commissioners and to enable them to lay an additional tax on lands within their district and to borrow further money to amend the Nene Outfall Acts and for other purposes. A.D. 1881.

[3rd June 1881.]

WHEREAS by an Act passed in the twenty-seventh year of the reign of King George the Second (1753) chapter 19 intituled "An Act for discharging the corporation of the governor bailiffs and commonalty of the Company of Conservators of the Great Level of the Fens commonly called Bedford Level from a debt due to the Duke of Bedford and Earl of Lincoln and for enabling the proprietors of land in the North Level part of the said Great Level to raise money to discharge the proportion of the said North Level in the debts of the said corporation and for ascertaining and appropriating the taxes to be laid on the said North Level and for the more effectual draining and preserving the said North Level and divers lands adjoining thereto in the manor of Crowland" and an Act passed in the eleventh year of the reign of King George the Third (1771) chapter 78 intituled "An Act to enable the corporation of the governor bailiffs and commonalty of the Company of Conservators of the Great Level of the Fens called Bedford Level to complete and maintain the principal banks and works necessary to the well draining and preserving the North Level part of the said Great Level and for laying taxes upon the lands within the said North Level and on divers lands adjoining thereto in the manor of Crowland" and an Act passed in the thirty-sixth year of the same reign (1796) chapter 73 intituled "An Act for laying an additional tax upon the lands within the North Level part of the Great Level of the Fens called Bedford Level and on Portsand otherwise Great Porsand in the county of Lincoln for the further support and preservation of the principal banks and works of the said North Level" and an Act passed in the eleventh year of the reign of King George the Fourth (1830) chapter 53 intituled "An Act for improving the

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drainage of the lands lying in the North Level part of the Great Level of the Fens called Bedford Level and in Great Portsand in the manor of Crowland and for providing a navigation between Clows Cross and the Nene Outfall Cut" and an Act passed in the first year of the reign of King William the Fourth (1831) chapter 27 intituled "An Act to amend an Act passed in the eleventh year of the reign of his late Majesty King George the Fourth intituled 'An Act for improving the drainage of the lands lying in the North Level part of the Great Level of the Fens called Bedford Level and in Great Portsand in the manor of Crowland and for providing a navigation between Clows Cross and the Nene Outfall Cut'" and an Act passed in the third year of the same reign (1833) chapter 72 intituled "An Act for altering and amending several Acts passed for the drainage and improvement of the lands lying in the North Level part of the Great Level of the Fens called Bedford Level and in Great Portsand and in the manor of Crowland and for providing additional funds for such drainage and improvement by the Nene Outfall Cut to sea" and an Act passed in the session of Parliament held in the sixth and seventh years of the same reign (1836) chapter 92 intituled "An Act for altering and amending several Acts passed for improving the outfall of the river Nene and the drainage of the lands discharging their waters into the Wisbech river" and the North Level Act 1857 certain lands in the North Level part of the Great Level of the Fens called Bedford Level and in Great Portsand in the manor of Crowland were divided into five several districts for the purposes of drainage and the general drainage of the said districts was placed under the management of the North Level Commissioners:

20 & 21 Vict. c. cix.

And whereas by an Act passed in the session of Parliament held in the seventh and eighth years of the reign of King George the Fourth (1827) cap. 85 intituled "An Act for improving the outfall of the river Nene and the drainage of the lands discharging their waters into the Wisbech river and the navigation of the said Wisbech river from the upper end of Kinderley's Cut to the sea and for embanking the salt marshes and bare sands lying between the said cut and the sea" and an Act passed in the tenth year of the same reign (1829) cap. 104 intituled "An Act for altering amending and enlarging the powers granted by an Act passed in the seventh and eighth years of the reign of His present Majesty for improving the outfall of the river Nene and the drainage of the lands discharging their waters into the Wisbech river and the navigation of the said Wisbech river from the upper end of Kinderley's Cut to the sea and for embanking the salt marshes and bare sands lying between the said cut and the sea" and the

said recited Act of 1836 cap. 92 and an Act passed in the session of Parliament held in the eleventh and twelfth years of the reign of Her present Majesty (1848) cap. 143 intituled "An Act to improve the river Nene and Wisbech river and the drainage of lands discharging their waters into the same" the outfall of the river Nene was placed under the charge of the Commissioners of the Nene Outfall:

And whereas it is expedient to provide for the incorporation of the North Level Commissioners and to authorise them to lay an additional tax on lands within their district and to borrow further money and to acquire by agreement lands and easements rights and privileges in over under or affecting lands:

And whereas it is expedient to authorise the making of agreements between the North Level Commissioners and the owners of lands charged with the payment of fixed yearly taxes payable to the said Commissioners for the redemption of such taxes in the manner and subject to the conditions by this Act prescribed:

And whereas it is expedient that the Commissioners of the Nene Outfall should be empowered to acquire by agreement lands and easements rights and privileges in over under or affecting lands for the purposes of the Acts relating to the outfall of the river Nene and it is expedient to amend the provisions of the said Acts with respect to the taking or making of the oath or affirmation thereby required to be taken or made by a Commissioner of the Nene Outfall before acting as such:

And whereas the objects aforesaid cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Part I.—Preliminary.

Short titles.

1. This Act may be cited for all purposes as the North Level and Nene Outfall Act 1881 and the recited Act of 1753 cap. 19 may be cited for all purposes as the North Level Act 1753 and the recited Act of 1771 cap. 78 may be cited for all purposes as the North Level Act 1771 and the recited Act of 1796 cap. 73 may be cited for all purposes as the North Level Act 1796 and the recited Act of 1827 cap. 85 may be cited for all purposes as the Nene Outfall Act 1827 and the recited Act of 1829 cap. 104 may be cited for all purposes as the Nene Outfall Act 1829 and the recited Act of 1830

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cap. 53 may be cited for all purposes as the North Level Act 1830 and the recited Act of 1831 cap. 27 may be cited for all purposes as the North Level Act 1831 and the recited Act of 1833 cap. 72 may be cited for all purposes as the North Level Act 1833 and the recited Act of 1836 cap. 92 may be cited for all purposes as the North Level and Nene Outfall Act 1836 and the recited Act of 1848 cap. 143 may be cited for all purposes as the Nene Improvement Act 1848.

Act divided into three parts.

2. This Act shall be divided into three parts namely—

Part I.—Preliminary;

Part II.—Amendment of the North Level Acts;

Part III.—Amendment of the Nene Outfall Acts.

General interpretation of terms.

3. In this Act—

The word "person" shall include a corporation.

Words or expressions to which meanings are assigned in enactments incorporated with any part of this Act or which have therein special meanings shall except as otherwise provided by such part of this Act have the same meanings respectively.

The expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act wholly or partially incorporated with any part of this Act shall be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt and not a debt or demand created by statute.

The expression "the North Level Acts" shall mean the North Level Act 1753 and all other Acts and provisions of Acts altering amending or affecting the same for the time being in force.

The expression "the Nene Outfall Acts" shall mean the Nene Outfall Act 1827 and all other Acts and provisions of Acts altering amending or affecting the same for the time being in force.

PART II.—AMENDMENT OF THE NORTH LEVEL ACTS.

Incorporation of North Level Commissioners.

4. From and after the passing of this Act the North Level Commissioners and their successors from time to time under the North Level Acts shall be and they are hereby made and constituted one body politic and corporate by the name and style of "The North Level Commissioners" and by that name shall have a perpetual succession and a common seal and by that name shall and may sue and be sued and be capable without license in mortmain and without incurring any of the penalties or forfeitures of the statutes of mortmain to purchase and hold lands tenements and here-

ditaments and goods and chattels and to dispose thereof to the use and for the purposes of the said corporation. A.D. 1881.

The North Level Commissioners as incorporated by this Act shall be in substitution for the unincorporated North Level Commissioners and shall as incorporated by this Act constitute the North Level Commissioners within the meaning and for the purposes of the North Level Acts and except as by this Act expressly provided the North Level Acts in force at the time of the passing of this Act shall from and after the passing of this Act in all respects continue to operate as if this Act had not been passed and the term "the North Level Commissioners" in the North Level Acts shall be construed to mean the North Level Commissioners incorporated by this Act.

All the property real and personal (including things in action) and all the rights privileges jurisdictions functions powers authorities duties and liabilities vested in enjoyable and exercisable by imposed upon and affecting the unincorporated North Level Commissioners immediately before the passing of this Act and all contracts deeds acts rates and proceedings made done taken leviable or pending by or against the unincorporated North Level Commissioners under the North Level Acts at such time shall except as by this Act expressly provided remain unaffected by the said substitution and shall respectively vest in and be enjoyable and exercisable by be imposed upon be leviable by and enure to the benefit of or against the incorporated North Level Commissioners in like manner in every respect (save as to their incorporation) as if they were the unincorporated Commissioners and this Act had not been been passed.

Notwithstanding the incorporation of the North Level Commissioners as herein-before provided all orders resolutions and proceedings of the North Level Commissioners when signed in accordance with the provisions of section 15 of the North Level Act 1830 shall for all the purposes in the said section mentioned be deemed and taken to be original orders as fully and effectually as if the same were under the common seal of the North Level Commissioners.

Power to purchase lands &c. by agreement.

5. The North Level Commissioners may from time to time by agreement but not otherwise purchase any lands and any easements rights or privileges in over under or affecting any lands which they may require for any of the purposes of the North Level Acts and the provisions of the Lands Clauses Consolidation Act 1845 and of the Lands Clauses Consolidation Acts Amendment Act 1860 (except with respect to the purchase and taking of lands otherwise than by agreement and with respect to the entry upon lands by the promoters of the undertaking) shall extend and apply to the purchase of all or any such lands and are incorporated herewith and persons empowered by the Lands Clauses Consolidation Act 1845 to sell and

8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.

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convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the said Commissioners any easement right or privilege in over under or affecting any such lands required for such purposes as aforesaid and the provisions of the said Acts with respect to lands and rent charges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Power to remove Hannath's Bridge.

6. From and after the passing of this Act so much of section 54 of the North Level Act 1830 as relates to the bridge across the North Level main drain therein mentioned upon the farm therein mentioned as in the occupation of Joseph Hannath lying west of the Roman Bank in the parish of Tid Saint Giles and so much of section 7 of the North Level Act 1857 as relates to the occupation bridge of the said Joseph Hannath across the said North Level main drain and to the reconstruction repair and maintenance of another bridge in lieu thereof shall be and the same is hereby repealed and the North Level Commissioners may forthwith after the passing of this Act discontinue and remove the said bridge and may sell and dispose of the same or the materials thereof and apply the proceeds thereof as the funds of the said Commissioners are applicable under the North Level Acts.

Additional funds for execution of Acts to be provided by additional tax.

7. The North Level Commissioners may for the purpose of providing such moneys for carrying the North Level Acts into execution as the said Commissioners may from time to time require in addition to the moneys which they are authorised to raise levy or receive under the North Level Acts in force at the time of the passing of this Act from time to time at any yearly general meeting or any adjournment thereof by order in writing under their common seal make one assessment under the name of the "North Level Additional Tax" and thereby assess tax and charge all and singular the lands lying within the five several districts of the North Level and Great Portsand by the North Level Act 1830 taxed and charged with the yearly tax of three shillings per acre or with the reduced tax of sixpence per acre in the said Act mentioned with equal taxes for every acre of the said lands and so in proportion for any quantity less than an acre not exceeding in any one year the sum of one shilling per acre for every acre of the said several lands and so in proportion for any quantity less than an acre thereof and such taxes shall be payable and paid by the respective owners or occupiers of the said several lands on the first day of December yearly to the receiver or receivers of the said Commissioners or to such person or persons and at such place or places as the said Commis-

sioners shall by such order direct or otherwise to their receiver or receivers at his or their dwelling house or houses.

Reduced tax charged on certain lands.

8. Until the lands taxed and charged with the reduced tax of sixpence per acre under the North Level Act 1830 shall be taxed and charged with the tax of three shillings per acre under that Act the additional tax assessed taxed or charged on the same lands under this Act in any one year shall not exceed for every acre of the same lands and so in proportion for any quantity less than an acre thereof one equal sixth part of the additional tax assessed taxed and charged upon the other lands assessed taxed and charged with such additional tax.

Power for recovering additional tax.

9. The North Level Commissioners and their officers shall have and may exercise such or the like powers and remedies for recovering and enforcing the payment of the North Level additional taxes assessed taxed and charged under the authority of this Act and with and under such or the like penalties as are in and by the North Level Act 1830 given to or vested in the North Level Commissioners for recovering and enforcing payment of the taxes thereby assessed and charged and all the powers and remedies by the same Act given to or vested in owners or tenants or occupiers touching the last-mentioned taxes shall be vested in and may be exercised by the owners or tenants or occupiers of the several lands assessed taxed and charged under the authority of this Act in respect of the North Level additional taxes.

Amendment of 1 Will. 4. c. xxvii. s. 18. as to extent of borrowing power.

10. Section eighteen of the North Level Act 1831 with respect to the power of the North Level Commissioners to raise by mortgage any further sums to the extent of the repayments made by the sinking fund shall be read as if the limit to the amount of the yearly interest therein mentioned had been thereby fixed at the yearly sum of seven thousand five hundred pounds instead of the yearly sum of six thousand pounds and the said section shall be construed accordingly as if instead of the words "six thousand pounds" at the end of the said section the words "seven thousand five hundred pounds" were therein inserted.

Power to agree for redemption of fixed yearly taxes.

11. The North Level Commissioners may from time to time agree with the owner of any lands taxed or charged with the payment of any fixed sum by way of yearly tax under the North Level Acts in force at the time of the passing of this Act for the redemption of the said yearly tax by the payment of such sum as may be agreed upon between the said Commissioners and such owner regard being had to the total amount of principal moneys (if any) charged upon such yearly tax the purposes to which the said tax may be applied and all the circumstances of the case. Provided that

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in case such yearly tax has been assigned by way of mortgage or otherwise by any deed or instrument still in force the person or each of the persons entitled under such assignment consent to such redemption. Every such redemption shall be evidenced by a deed duly stamped setting forth the lands discharged from payment of such yearly tax and the consideration for the redemption of such yearly tax and from and after the execution of such deed the said lands and every part of the same shall be absolutely freed and discharged from any further payments in respect of the yearly tax so redeemed.

All moneys paid to the said Commissioners for the redemption of any such yearly tax shall be applied towards payment of all charges (if any) affecting the same according to their several priorities and the balance (if any) shall be invested by the said Commissioners in any securities in which trustees are for the time being by law authorised to invest trust funds and the dividends and interest from time to time received by the said Commissioners on account of the moneys so invested shall from time to time be applied to the same purposes to which such yearly tax if unredeemed would have been applicable under the North Level Acts.

Any person entitled under any such assignment of any such yearly tax and who is a person enabled by the Lands Clauses Consolidation Act 1845 to sell land under that Act may consent to any such agreement for the redemption of the same and to the repayment of any of the moneys secured thereby before the time limited for the payment thereof as if such person was the absolute owner in his own right of such security and such person is hereby indemnified for so doing and all moneys paid to such person in respect of or on account of any such assignment or the moneys secured thereby shall be subject and liable to the same trusts powers provisions declarations agreements charges liens and incumbrances as immediately before the payment thereof affected such assignment or the moneys secured thereby and so as to give effect to and not to annul any testamentary disposition of or affecting the same.

Power to borrow money on the credit of the additional tax.

12. The North Level Commissioners may from time to time borrow money at interest on mortgage on the credit of the North Level additional taxes which may be assessed taxed and charged under the authority of this Act any sum or sums of money which they may think necessary for carrying the provisions of the North Level Acts into effect and in the event of such sum or sums of money or any part thereof being called in or being repaid by the said Commissioners by any means except the sinking fund herein-after mentioned the said Commissioners may from time to time re-borrow the same or any part thereof so that there be not at any one time more

than the sum of fifteen thousand pounds due on the credit of the North Level additional taxes and for securing the repayment of any sum or sums so borrowed with interest the said Commissioners may mortgage to the person by or on behalf of whom such sum or sums are advanced the North Level additional taxes and all moneys so borrowed shall be applied only to the purposes for which the same have been borrowed under the authority of this Act.

Incorporation of certain provisions of 10 & 11 Vict. c. 16.

13. The provisions of the Commissioners Clauses Act 1847 with respect to the mortgages to be executed by the Commissioners shall be incorporated with this part of this Act and shall apply to the borrowing by the North Level Commissioners of the moneys which they are authorised to borrow on the credit of the North Level additional taxes.

Appropriation for sinking fund.

14. The sum to be annually appropriated and set apart out of the North Level additional taxes for application in paying off the principal moneys to be borrowed on the credit of such taxes or as a sinking fund for that purpose shall be a sum not less than one thirtieth part of the whole amount borrowed.

Power to enforce payment of mortgage debts by the appointment of a receiver.

15. It shall be lawful for the mortgagees of the North Level additional taxes to enforce the payment of the arrears of interest or principal or principal and interest due to them by the appointment of a receiver and in order to authorise the requisition for a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than one thousand pounds in the whole.

Former mortgages not to be prejudiced.

16. Nothing in this Act shall prejudice or affect any mortgage or other security granted by the North Level Commissioners before the passing of this Act and which shall be in force at the time of the passing of this Act.

Protection of lenders.

17. A person lending money to the North Level Commissioners secured by mortgage under this Act shall not be bound or entitled to inquire as to the observance by them of any provision of this Act or be bound to see to the application or be answerable for any loss or non-application or mis-application of the money lent or any part thereof.

Annual return to Local Government Board with respect to sinking fund or instal-

18. The clerk to the North Level Commissioners shall within twenty-one days after the first day of January of each year during which any sum is required to be set apart for a sinking fund to be applied in paying off the principal moneys borrowed on mortgage of the North Level additional taxes transmit to the Local Government

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ments in respect of moneys borrowed on mortgage.

Board a return in such form as may be prescribed by that board and verified by statutory declaration if so required by them showing the amount which has been invested or applied for the purpose of such sinking fund during the year preceding the making of such return and the description of the securities upon which the same has been invested and also showing the purposes to which any portion of the moneys invested for the sinking fund or any interest thereof has been applied during the same period and the total amount remaining invested at the end of the year and in the event of any wilful default in making such return such clerk shall be liable to a penalty of not exceeding twenty pounds If it appear to the Local Government Board by such return or otherwise that the North Level Commissioners have failed to set aside the sum so required for such sinking fund or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised by this Act the Local Government Board may by order direct that a sum not exceeding double the amount in respect of which such default has been made shall be set apart and invested by the North Level Commissioners as part of the sinking fund and such order shall be enforceable by writ of mandamus to be obtained by the Local Government Board out of the High Court of Justice.

Power to borrow money by way of temporary loan.

19. The North Level Commissioners or their committee for the time being may pursuant to any order to be made at any general or special meeting of the said Commissioners from time to time borrow and take up any sum or sums of money at their discretion by way of temporary loan for the purposes of the North Level Acts and give the bond or bonds of the said Commissioners under their corporate seal for the repayment of such sum or sums of money with interest for the same not exceeding the rate of five pounds per centum per annum to the body or bodies or person or persons who shall advance or lend the same or to their his or her successors executors administrators or assigns and the said Commissioners shall repay such sum or sums of money which shall from time to time be so borrowed and taken up as aforesaid with the interest thereof out of any money which shall come to their hands under the North Level Acts Provided that the sum or sums of money which shall be borrowed or taken up by the said Commissioners upon any such bond as aforesaid shall be made repayable at a period not exceeding two years from the date of such bond and that all the principal money which shall be owing upon any such bond or bonds as aforesaid shall not together and in the whole exceed the sum of ten thousand pounds at any one time.

Expenses of Act.

20. All the costs charges and expenses of and incidental to the preparing applying for obtaining and passing of this Act shall be paid by the North Level Commissioners out of the first moneys which may come to their hands under the North Level Acts.

Part III.—Amendment of the Nene Outfall Acts.

Power to purchase lands by agreement.

21. The Commissioners of the Nene Outfall may from time to time by agreement but not otherwise purchase any lands and any easements rights or privileges in over under or affecting any lands which they may require for any of the purposes of the Nene Outfall Acts and the provisions of the Lands Clauses Consolidation Act 1845 and of the Lands Clauses Consolidation Acts Amendment Act 1860 (except with respect to the purchase and taking of lands otherwise than by agreement and with respect to the entry upon lands by the promoters of the undertaking) shall extend and apply to the purchase of all or any such lands and are incorporated herewith and persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the said Commissioners any easement right or privilege in over under or affecting any such lands required for such purposes as aforesaid and the provisions of the said Acts with respect to lands and rent charges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

As to oath or affirmation to be taken or made by Commissioners of the Nene Outfall.

22. It shall not be necessary for any person having once taken the oath or made the affirmation required to be taken or made by the Nene Outfall Act 1827 by every person before he shall act as a Commissioner in the execution of the said Act or having made a declaration in lieu of such oath or affirmation and having acted as a Commissioner of the Nene Outfall after having taken or made the same to take such oath or make such affirmation or declaration again on any subsequent appointment nomination choice or election of such person to be a Commissioner of the Nene Outfall unless such person shall have ceased to be or act as such Commissioner for the space of two successive years.

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