CHAPTER xxvi

An Act to empower the mayor, aldermen and burgesses of the borough of Sutton Coldfield to execute works for the improvement of Plants Brook; and for other purposes.

[19th July, 1961.]

WHEREAS—

(1) The borough of Sutton Coldfield in the county of Warwick (in this Act called " the borough ") is a municipal borough under the government of the mayor, aldermen and burgesses of the borough (in this Act called " the Corporation "):

(2) It is expedient to authorise the Corporation to execute the works referred to in this Act and to acquire lands for the purpose of such works and for other purposes:

(3) It is expedient that the other provisions contained in this Act be enacted:

(4) The purposes of this Act cannot be effected without the authority of Parliament:

(5) Estimates have been prepared for the purposes hereinafter mentioned and such estimates are as follows:—

The execution of the works authorised by this Act	£541,780

(6) The several works included in such estimates are permanent works and it is expedient that the cost thereof should be spread over a term of years:

(7) In relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act, 1933, have been observed:

(8) Plans and sections showing the lines and levels of the works authorised by this Act and showing the lands required or which may be taken for the purposes or under the powers of this Act and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of those lands were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the clerk of the county council of the administrative county of Warwick and with the town clerk of the city of Birmingham which plans, sections and book of reference are in this Act referred to respectively as the deposited plans, sections and book of reference:

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 and collective titles.

1.—(1) This Act may be cited as the Sutton Coldfield Corporation Act, 1961.

(2) The Sutton Coldfield Corporation Act, 1903, the Sutton Coldfield Corporation Act, 1920, the Sutton Coldfield Corporation Act, 1930, and this Act may be cited together as the Sutton Coldfield Corporation Acts, 1903 to 1961.

Division of Act into Parts.

2. This Act is divided into Parts as follows:—

Part I.—Preliminary.

Part II.—Lands.

Part III.—Plants Brook improvement.

Part IV.—Finance and miscellaneous.

Incorporation of Acts.

3. The following enactments (so far as the same are applicable for the purposes of and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act:—

(*a*) the Lands Clauses Acts (except sections 92 and 127 to 133 of the Lands Clauses Consolidation Act, 1845, and section 5 of the Lands Clauses Consolidation Acts Amendment Act, 1860):

Provided that—

(i) the bond required by section 85 of the Lands Clauses Consolidation Act, 1845, shall be sufficient without the addition of the sureties mentioned in that section; and

PART I —*cont.*

(ii) the expression " the promoters of the undertaking " where used in the incorporated provisions of the Lands Clauses Acts means the Corporation;

(*b*) sections 16, 30 to 44, and 78 to 85 of the Railways Clauses Consolidation Act, 1845:

Provided that—

(i) in the construction of those provisions the expression " the railway " shall mean the works authorised by this Act and the expression " the centre of the railway " shall mean any part of those works and the expression " the company " shall mean the Corporation;

(ii) in section 32 of the Railways Clauses Consolidation Act, 1845, the words "the expiration of the period by the special Act limited for " shall be omitted;

(iii) sections 78 to 85 of the Railways Clauses Consolidation Act, 1845, shall be incorporated as the said sections were originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act, 1923.

Interpretation.

4.—(1) In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated therewith or by section 343 of the Public Health Act, 1936, have the same respective meanings unless there be something in the subject or context repugnant to such construction.

(2) In this Act unless the subject or context otherwise requires—

" the borough " means the borough of Sutton Coldfield;

" the brook " means Plants Brook;

" the Corporation " means the mayor, aldermen and burgesses of the borough;

" the council " means the council of the borough;

" enactment " includes an enactment in this Act or in any general or local Act and any order, byelaw or regulation for the time being in force within the borough;

" land " includes any interest in land and any easement or right in, to or over land;

" the Lands Clauses Acts " means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act, 1919, by Part V of the Town and Country Planning Act, 1947, by the Lands Tribunal Act, 1949, by the Town and Country Planning Act, 1954, by the Town and Country Planning Act, 1959, and by this Act;

PART I —*cont.*

"the Minister" means the Minister of Housing and Local Government;

"the town clerk" means the town clerk of the borough;

"the tribunal" means the tribunal or other authority to whom any question of disputed purchase money or compensation under this Act is referred in pursuance of the Acquisition of Land (Assessment of Compensation) Act, 1919, as amended by the Lands Tribunal Act, 1949.

(3) Except where the context otherwise requires any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by or by virtue of any subsequent enactment including this Act.

PART II

LANDS

Power to acquire lands.

5.—(1) Subject to the provisions of this Act, the Corporation may enter upon, take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for the purpose of the works authorised by this Act or any purpose connected therewith.

(2) The powers of compulsory purchase of land under this section shall cease after the expiration of three years from the first day of December nineteen hundred and sixty-one.

Correction of errors in deposited plan and book of reference.

6.—(1) If the deposited plans or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Corporation, after giving ten days' notice to the owner, lessee and occupier of the land in question, may apply to two justices having jurisdiction in the place where the land is situated for the correction thereof.

(2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake, the justices shall certify the fact accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office, House of Commons, and with the clerk of the county council of the county or the town clerk of the county borough in which the land therein referred to is situate and with the town clerk; and thereupon the deposited plans and the deposited book of reference

PART II —*cont.*

shall be deemed to be corrected according to the certificate, and it shall be lawful for the Corporation to take the land and execute the works in accordance with the certificate.

(4) A person with whom a copy of a certificate is deposited under this section shall keep it with the other documents to which it relates.

Acquisition of part only of certain properties.

7.—(1) For the purposes of this Act the following provisions of this section shall have effect in substitution for section 92 of the Lands Clauses Consolidation Act, 1845.

(2) No person shall be required to sell a part only of any house, building or factory, or of a park or garden belonging to a house, if he is willing and able to sell the whole of the house, building, factory, park or garden unless the tribunal determines—

(*a*) in the case of a house, building or factory, that such part as is proposed to be taken can be taken without material detriment to the house, building or factory; or

(*b*) in the case of a park or garden, that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house to which it belongs.

(3) If the tribunal determines as aforesaid, compensation shall be awarded in respect of any loss due to the severance of the part proposed to be taken in addition to the value of that part; and thereupon the person interested shall be required to sell to the Corporation that part of the house, building, factory, park or garden.

Power to expedite entry.

8. At any time after serving a notice to treat in respect of any land that may be acquired compulsorily under this Act, but not less than two months after giving the owner and occupier of the land notice of their intention to exercise the powers of this section, the Corporation may enter on and take possession of the land, or such part thereof as is specified in the last-mentioned notice, without previous consent and without compliance with sections 84 to 90 of the Lands Clauses Consolidation Act, 1845:

Provided that the Corporation shall pay the like compensation for land of which possession is taken under this section, and the like interest on the compensation awarded, as would have been payable if the provisions of those sections had been complied with.

Power to enter for survey or valuation.

9. Any person acting on behalf of the Corporation and duly authorised in that behalf may, on producing if so required some duly authenticated document showing his authority, at all reasonable times enter on any land that the Corporation are authorised by this Act to acquire compulsorily for the purpose of surveying or valuing the land:

PART II —*cont.*

Provided that no land shall be entered under this section unless the Corporation, not less than seven days before the date of the first entry and not less than twenty-four hours before any subsequent entry, have given notice to the owner and occupier of the land.

Disregard of recent improvements and interests.

10. In determining any question of disputed compensation or purchase money in respect of land acquired under this Act the tribunal shall not take into account—

(*a*) any improvements or alteration made, or building erected, after the fifth day of December nineteen hundred and sixty; or

(*b*) any interest in the land created after the said date;

which in the opinion of the tribunal was not reasonably necessary and was made, erected or created with a view to obtaining or increasing the compensation or purchase money.

Extinction of private rights of way.

11.—(1) Any private right of way over any land that may be acquired compulsorily under this Act shall, if the Corporation so resolve and give notice of their resolution to the owner of the right, be extinguished as from the acquisition of the land whether compulsorily or by agreement, or as from the expiration of one month from the service of the notice, whichever is the later.

(2) Any person who suffers loss by the extinguishment of any right under this section shall be entitled to be paid by the Corporation compensation to be determined in case of dispute under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, as amended by the Lands Tribunal Act, 1949.

Power to acquire easements only.

12.—(1) The Corporation may, instead of acquiring any land that they are authorised to acquire compulsorily under this Act, acquire compulsorily such easements and rights over or in the land as they may require for the purpose of constructing, using, maintaining, renewing or removing the works authorised by this Act or of doing any other thing necessary in connection with the works.

(2) Accordingly the Corporation may give notice to treat in respect of any such easement or right describing the nature thereof; and the provisions of the Lands Clauses Acts shall apply in relation to the acquisition of such easements and rights as if they were lands within the meaning of those Acts.

(3) Where the Corporation have acquired an easement or right only in any land under this section—

(*a*) they shall not be required or, except by agreement or during the execution of the said works, entitled to fence off or sever that land from the adjoining land;

PART II —*cont.*

(*b*) the owner or occupier of the land for the time being shall, subject to the easement or right, have the same right to use the land as if this section had not been enacted.

(4) If in his particulars of claim the owner of any land in respect of which notice to treat for an easement or right is given under this section requires the Corporation to acquire the land, the Corporation shall not be entitled under this section to acquire the easement or right unless the tribunal determines that the easement or right can be granted without material detriment to the land or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house; and, if the tribunal does not so determine, the Corporation may acquire the land compulsorily after the expiration of the period mentioned in subsection (2) of section 5 (Power to acquire lands) of this Act, but not later than one year after the determination of the tribunal:

Provided that nothing in this subsection shall apply to land forming part of a street.

(5) A notice to treat given under this section shall be endorsed with notice of the effect of subsection (4) of this section.

Grant of easements by persons under disability.

13.—(1) Any person empowered by the Lands Clauses Acts to sell and convey or release lands may if he thinks fit, subject to the provisions of those Acts, grant to the Corporation any easement or right required for the purposes of this Act in, over or affecting any such lands not being an easement or right of water in which some person other than the grantor has an interest.

(2) The provisions of the said Acts with respect to lands and rentcharges so far as they are applicable shall extend and apply to any such grant and to any such easement or right as aforesaid.

Provision of substituted sites.

14. The power of the Corporation of purchasing land by agreement shall include power to purchase land by agreement for the purpose of providing substituted sites or facilities for the owners and occupiers of land that may be acquired under any enactment.

Power to reinstate owners or occupiers of property.

15.—(1) The Corporation may enter into and carry into effect an agreement or arrangement with the owner or occupier of any land acquired under this Act with respect to his reinstatement elsewhere.

(2) Any such agreement may provide for the exchange of land; and for that purpose the Corporation may pay or receive money for equality of exchange.

PART II —*cont.*

Agreements with adjoining owners.

16.—(1) The Corporation may enter into and carry into effect agreements with any person being the owner of, or interested in, any land abutting on any portion either of the works authorised by this Act or of land that may be acquired under this Act with respect to the sale by the Corporation to him of any land, including any part of a street appropriated by the Corporation under this Act and not required for those works.

(2) The Corporation may accept as satisfaction of the whole or any part of the consideration for any such sale the grant by the purchaser of any land required by the Corporation for the purposes of this Act or any easement or right so required.

Reservation of easements, etc., by Corporation.

17. On selling any land the Corporation—

(*a*) may reserve to themselves all or any part of the water rights or other rights or easements belonging thereto and may make the sale subject to such reservation accordingly;

(*b*) may make the sale subject to such other reservations, conditions and restrictions as they think fit; and, without prejudice to the generality of the foregoing words of this paragraph, such conditions and restrictions may prohibit or restrict the exercise of noxious trades or the deposit or discharge of manure, sewage or other impure matter.

Development of land.

18.—(1) The Corporation may with the consent of the Minister lay out and develop any land acquired by them under section 59 (Further powers for the acquisition of lands) of the Sutton Coldfield Corporation Act, 1930, and any other land for the time being belonging to them and not required for the purpose for which it was acquired, and may on any such land erect and maintain houses, flats, shops, offices, industrial buildings, garages, warehouses and other buildings and construct, sewer, drain, pave, channel and kerb streets:

Provided that nothing in this section shall apply to land acquired by the Corporation under section 38 or section 40 of the Town and Country Planning Act, 1947, or to land appropriated by them for the purposes for which land can be acquired under those sections.

(2) In this section "industrial building" includes a building used or designed for use for the carrying on of any process for, or incidental to, any of the following purposes, namely:—

(*a*) the making of any article or part of any article; or

(*b*) the altering, repairing, ornamenting, finishing, cleaning, washing, freezing, packing or canning or adapting for sale or breaking up or demolition of any article; or

PART II —*cont.*

(*c*) without prejudice to the foregoing paragraphs, the getting, dressing or preparation for sale of minerals or the extraction or preparation for sale of oil or brine;

being a process carried on in the course of trade or business; and for the purposes of this definition " building " includes a part of a building and " article " means an article of any description including a ship or vessel.

For protection of Birmingham Corporation.

19. For the protection of the lord mayor, aldermen and citizens of the city of Birmingham (in this section referred to as " the Birmingham Corporation ") the following provisions shall unless otherwise agreed in writing between the Corporation and the Birmingham Corporation apply and have effect:—

Notwithstanding anything in this Act contained or shown on the deposited plans the Corporation shall not without the consent of the Birmingham Corporation enter upon, take or use any of the lands delineated on the deposited plans and described in the deposited book of reference and therein numbered 29, 38, 39, 40, 44, 45, 46, 76 and 77 or any easement or right over or in those lands :

Provided that such consent shall not be unreasonably withheld, and any question whether it is unreasonably withheld shall be referred to and determined by the Minister.

PART III

PLANTS BROOK IMPROVEMENT

Power to execute works.

20. Subject to the provisions of this Act the Corporation may in the lines and according to the levels shown upon the deposited plans and sections relating thereto execute, make and maintain the works hereinafter described with all necessary or convenient works and conveniences in connection therewith, namely:—

Work No. 1 In the borough and in the city of Birmingham—a widening, improvement and partial diversion of the brook from the railway boundary on the east side of the bridge (Walsall-Water Orton branch of British Railways) over the brook near Ebrook Road to the west parapet wall of the bridge carrying Eachelhurst Road over the brook;

Work No. 2 In the borough—a diversion and culverting of the brook from the east parapet wall of the said bridge carrying Eachelhurst Road over the brook to a point on the existing culvert across Castle Bromwich Airfield (disused) one hundred and fifty yards or thereabouts south-east of Kingsbury Road.

Power to deviate.

21. The Corporation in constructing the works authorised by this Act may deviate to any extent not exceeding the limits

PART III —*cont.*

of deviation shown on the deposited plans and may deviate from the levels shown on the deposited sections to any extent not exceeding five feet either upwards or downwards.

Subsidiary powers.

22.—(1) Subject to the provisions of this Act the Corporation in connection with the works authorised by this Act and for the purposes thereof may—

(*a*) make and maintain all necessary and convenient walls, embankments, fences, culverts, drains, intakes, watercourses, weirs, sluices, roads, bridges, footpaths and all such machinery, works and appliances as may be required;

(*b*) raise, widen, lengthen, alter and reconstruct the bridges over the brook, together with the approaches thereto, and strengthen, underpin and deepen the piers, arches and other supports and the foundations thereof without acquiring the said bridges or any interest therein;

(*c*) (i) stop up and discontinue such portions of the brook as will be rendered unnecessary by reason of the execution of the works authorised by this Act; and

(ii) fill in the channel of the said portions of the brook and execute any works which they may deem to be necessary in connection therewith;

(*d*) execute any works for the protection of any adjoining lands or buildings;

(*e*) remove, alter, divert or stop up any drain, sewer, channel or watercourse the Corporation providing a proper substitute before interrupting the flow of sewage in any drain or sewer or water in any channel or watercourse;

(*f*) alter the mains, pipes, wires and other works for the purpose of conveying water, gas or electricity to any house or other place and any telegraph and telephone posts, wires and cables and any radio and television broadcast relay posts, wires and cables; and

(*g*) raise, sink or otherwise alter the position of any of the steps, areas, cellars, windows and pipes or spouts belonging to any house or building and may remove all other obstructions.

(2) In the exercise of the powers conferred by this section the Corporation shall cause as little detriment and inconvenience to any person as circumstances admit and shall make reasonable compensation for any damage caused to any person by the exercise of such powers and such compensation shall in case of dispute be determined under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919.

Works on bed of brook.

23. The Corporation may enter upon the bed of the brook for the purpose of executing the works authorised by this Act without acquiring the same or any interest therein.

PART III —*cont.*

Underpinning of buildings.

24. Whereas in order to avoid in the execution and maintenance of the works authorised by this Act injury to the houses and buildings within one hundred feet of the said works it may be necessary to underpin or otherwise strengthen the same, therefore the Corporation at their own costs and charges may, and if required by the owners or lessees of any such house or building shall, subject as hereinafter provided, underpin or otherwise strengthen the same and the following provisions shall have effect (that is to say):—

(1) At least fourteen days' notice shall except in case of emergency be given to the owners, lessees and occupiers or by the owners or lessees of the house or building so intended or so required to be underpinned or otherwise strengthened:

(2) Each such notice if given by the Corporation shall be served in manner prescribed by section 19 of the Lands Clauses Consolidation Act, 1845, and if given by the owners or lessees of the premises to be underpinned or strengthened shall be sent to the Corporation:

(3) If any owner, lessee or occupier of any such house or building or the Corporation, as the case may require, shall within seven days after the giving of such notice give a counter-notice that he or they, as the case may be, disputes or dispute the necessity of such underpinning or strengthening the question of the necessity shall be referred to an arbitrator (in this section referred to as " the referee "):

(4) The referee shall forthwith upon the application of either party proceed to inspect such house or building and determine the matter referred to him, and in the event of his deciding that such underpinning or strengthening is necessary he may, and if so required by such owner lessee or occupier shall, prescribe the mode in which the same shall be executed and the Corporation may and shall proceed forthwith so to underpin or strengthen the said house or building:

(5) The Corporation shall be liable to compensate the owners, lessees and occupiers of every such house or building for any loss or damage which may result to them by reason of the exercise of the powers granted by this section, provided that the claim for compensation in respect of such loss or damage be made within three months from the occurrence thereof:

(6) (*a*) In any case in which any house or building shall have been underpinned or strengthened under the powers of this section the Corporation may from time to time

PART III —*cont.*

after the completion of such underpinning or strengthening, and during the execution of the work in connection with which such underpinning or strengthening was done, or within twelve months after the completion of that work, enter upon and survey such house or building and do such further underpinning or strengthening thereof as they may deem necessary or expedient, or as in case of dispute between the Corporation on the one hand and the owner, lessee or occupier of the house or building on the other hand shall be settled by arbitration;

(*b*) If in any case in which any house or building shall have been underpinned or strengthened on the requisition of the Corporation such underpinning or strengthening shall at any time within twelve months from the completion of the work in connection with which such underpinning or strengthening was done prove inadequate for the support or protection of the house or building against further injury arising from the execution or maintenance of such work, then and in every such case unless such underpinning or strengthening shall have been done in the mode prescribed by the referee at the requirement of the owner, lessee or occupier of such house or building the Corporation shall make compensation to the owners, lessees and occupiers of such house or building for such injury, provided that the claim for compensation in respect thereof be made by such owners within twelve months and by such lessees or occupiers within six months from the discovery thereof:

(7) Nothing in this section contained nor any dealing with any property in pursuance of this section shall relieve the Corporation from the liability to compensate under section 68 of the Lands Clauses Consolidation Act, 1845, or under any other Act:

(8) Every case of compensation to be ascertained under this section shall be ascertained according to the provisions of the Lands Clauses Acts.

For protection of Postmaster-General.

25.—(1) Any electrical machinery, works, appliances and apparatus erected, made, maintained, worked or used in pursuance of the powers conferred by this Act shall be so erected or made and so maintained, worked and used as to prevent interference with any telegraphic line belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line.

(2) The Corporation shall not in the exercise of the powers conferred by subsection (1) of section 22 (Subsidiary powers) of

PART III —*cont.*

this Act alter any telegraphic line belonging to or used by the Postmaster-General except in accordance with the provisions of paragraphs (1) to (8) of section 7 of the Telegraph Act, 1878.

(3) In this section the expressions "telegraphic line" and "alter" have the same meanings as in the Telegraph Act, 1878.

PART IV

FINANCE AND MISCELLANEOUS

Power to borrow.

26.—(1) The Corporation may borrow—

(*a*) such sums as may be necessary for any of the purposes of this Act;

(*b*) without the consent of any sanctioning authority, for any of the purposes specified in the first column of the following table, the sum specified in relation thereto in the second column of that table.

(2) The period for the repayment of a sum borrowed under paragraph (*b*) of the foregoing subsection shall not exceed the period specified in relation thereto in the third column of the said table.

(3) Subject to the provisions of this section, Part IX of the Local Government Act, 1933, shall have effect as if money borrowed under this section were borrowed under that Part, and as if the following table were in the Eighth Schedule to that Act.

(4) It shall not be lawful to exercise the powers of borrowing conferred by this section, other than the power of borrowing to pay the costs, charges and expenses of this Act, except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act, 1946.

(1)	(2)	(3)
Purpose	Amount	Period for repayment calculated from the date or dates of borrowing
The purchase of lands under the powers of this Act	The sum requisite	Sixty years.
The execution of the works authorised by this Act and works in connection therewith	£541,780	Fifty years.
The costs, charges and expenses of this Act	The sum requisite	Five years.

PART IV —*cont.*

Amendment of section 116 of Sutton Coldfield Corporation Act, 1930.

27. Subsection (2) of section 116 (Power to cleanse and improve streams and watercourses) of the Sutton Coldfield Corporation Act, 1930, shall have effect as if—

(1) for the words " preventing the silting up " there were substituted the words " securing the free flow "; and

(2) after the word " straighten " there were inserted the words " widen and divert ".

Application of general provisions of Public Health Act, 1936.

28. The sections of the Public Health Act, 1936, mentioned in the schedule to this Act shall have effect as if references therein to that Act included references to this Act.

Saving for Secretary of State for Air.

29.—(1) Except with and subject to the terms of the consent in writing of the Secretary of State for Air (hereinafter in this section called " the Secretary of State ") nothing in this Act—

(*a*) authorises the Corporation to enter upon, take, use or interfere with any land or water (notwithstanding that any such land or water may be described in the deposited book of reference or delineated on the deposited plans and sections) or any right in respect thereof for the time being vested in or in the occupation of or exercised or exercisable by the Secretary of State or vested in or in the occupation of or exercised or exercisable by any other person, body or corporation acting for or on behalf of the Secretary of State; or

(*b*) takes away, lessens, prejudices or alters any right, privilege or power vested in or exercised or exercisable by the Secretary of State.

(2) Any consent for the purpose of this section may be given on such conditions as the Secretary of State may see fit to impose.

For protection of British Transport Commission.

30. For the protection of the British Transport Commission (hereinafter called " the commission ") the following provisions shall unless otherwise agreed in writing between the Corporation and the commission apply and have effect:—

(1) In this section—

" commission property " means the lands belonging to or occupied by the commission shown on the deposited plans and the railways, railway works, canals and canal works of the commission thereon;

" the engineer " means an engineer to be appointed by the commission;

" plans " includes sections, drawings and specifications;

"the works" means so much of the works authorised by this Act as may be situated upon, across, under or over any railway or canal of the commission or may in any way affect the same, and includes the construction, maintenance, repair and renewal of such works:

(2) The Corporation shall not under the powers of this Act acquire compulsorily any lands of the commission, but they may, in accordance with the provisions of section 12 (Power to acquire easements only) of this Act, acquire such easements and rights in the lands of the commission shown on the deposited plans as they may require for the purposes of the works:

(3) The Corporation shall before commencing the works (other than works of maintenance and repair) furnish to the commission plans thereof for the reasonable approval of the engineer, and shall not commence the works until such plans have been approved in writing by the engineer, or, if he shall not approve the plans, until the same shall have been settled by arbitration:

Provided that if within twenty-eight days after such plans have been furnished to the commission the engineer shall not have intimated his disapproval thereof and the grounds of his disapproval he shall be deemed to have approved them:

(4) Upon signifying his approval or disapproval of the said plans the engineer may specify any temporary or permanent protective works which in his opinion should be carried out before the commencement of the works in order reasonably to ensure the stability of any commission property or to protect it from injury, and such temporary or permanent protective works as may be reasonably necessary for those purposes may be constructed by the Corporation, or by the commission if the commission so elect, and the Corporation shall not commence the construction of the works until such temporary or permanent protective works have been completed:

Provided that any temporary or permanent protective works to be constructed by the commission in pursuance of this paragraph shall be constructed with all reasonable dispatch:

(5) The Corporation shall give to the engineer fourteen days' notice in writing of their intention to commence the works except in cases of emergency when they shall give such notice thereof as may be reasonably practicable:

PART IV —*cont.*

(6) The works shall, when commenced, be carried out with all reasonable dispatch in accordance with the plans approved, or deemed to be approved, or settled as aforesaid and under the supervision (if given) and to the reasonable satisfaction of the engineer, and in such manner as to cause as little damage to commission property and as little interference with or delay or interruption to the conduct of traffic on the railway or canal as may be; and if any damage to commission property or any such interference, delay or interruption shall be caused or take place by reason of the works the Corporation shall, notwithstanding any such approval as aforesaid, forthwith make good such damage and pay to the commission all reasonable costs and expenses to which they may be put and reasonable compensation for any loss which they may sustain by reason of any such damage, interference, delay or interruption other than damage, interference, delay or interruption caused by the neglect or default of the commission, their servants or agents or contractors:

(7) The Corporation shall at all times afford reasonable facilities to the engineer for access to the works during their construction, and shall supply him with all such information as he may reasonably require with regard to the works or the method of construction thereof:

(8) The commission shall at all times afford reasonable facilities to the Corporation for access to any works carried out by the commission under this section during their construction and supply the Corporation with all such information as they may reasonably require with regard to such works or the method of construction thereof:

(9) If any alterations or additions, either permanent or temporary, to commission property shall be reasonably necessary in consequence of the works, such alterations and additions may be effected by the commission after notice has been given to the Corporation, and the Corporation shall repay to the commission the reasonable cost thereof, including a capitalised sum representing the increased or additional cost of maintaining, working and, when necessary, renewing any such alterations or additions:

(10) The Corporation shall repay to the commission all costs, charges and expenses reasonably incurred by the commission by reason of the works—

(*a*) in respect of the construction by the commission of any temporary or permanent protective works under the provisions of paragraph (4) of this section;

PART IV —*cont.*

(*b*) in respect of the employment of any inspectors, signalmen, watchmen and other persons whom it shall be reasonably necessary to appoint for inspecting, watching, lighting and signalling commission property and for preventing as far as may be all interference, obstruction, danger or accident arising from the works;

(*c*) in respect of any special traffic working resulting from any speed restrictions or otherwise which may, in the opinion of the engineer, require to be imposed and which may be due to the construction of the works or from the substitution or diversion of services; and

(*d*) in additional lighting of commission property in the vicinity of the works:

(11) If at any time after the completion of the works the commission shall give notice to the Corporation informing them that the state of repair of the works appears to be such as to affect prejudicially commission property the Corporation shall within twenty-eight days of the receipt of any such notice take such steps as may be reasonably necessary to put the works in such state of repair as not to affect prejudicially commission property and, if and whenever the Corporation fail to do so, the commission may make and do in and upon the lands of the commission or of the Corporation all such works and things as shall be requisite to put the works in such state of repair as aforesaid and the costs and expenses reasonably incurred by the commission in so doing shall be repaid to them by the Corporation:

(12) The Corporation shall be responsible for, and make good to the commission, all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to the commission, by reason of the works or the failure thereof, or by reason of any act or omission of the Corporation, or of any persons in their employ or of their contractors or others whilst engaged upon the works; and the Corporation shall effectively indemnify and hold harmless the commission from and against all claims or demands arising out of, or in connection with, the works or any such failure, act or omission as aforesaid and the fact that any work or thing may have been done in accordance with any plan approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not excuse the Corporation from any liability under the provisions of this section unless such costs, charges,

PART IV —*cont.*

damages or expenses shall be occasioned, or such claims and demands shall arise, by reason of the neglect or default of the commission their servants or agents or of their contractors:

Provided that the commission shall give to the Corporation reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the consent of the Corporation:

(13) (*a*) Any additional expense which the commission may reasonably incur in altering, reconstructing or maintaining the railway of the commission in pursuance of any powers existing at the passing of this Act by reason of the existence of the works shall be repaid by the Corporation to the commission;

(*b*) The commission shall give to the Corporation one month's notice of their intention to commence any works of alteration, reconstruction or maintenance to which this paragraph applies:

(14) Before providing any illumination on the works the Corporation shall consult with the commission and shall comply with any reasonable requirements of the commission in regard thereto:

(15) Any difference arising between the Corporation and the commission under this section (other than a difference as to the meaning or construction of this section) shall be referred to arbitration.

For protection of certain statutory undertakers.

31. The following provisions for the protection of the undertakers shall, unless otherwise agreed in writing between the Corporation and the undertakers, apply and have effect:—

(1) In this section—

" apparatus " means mains, pipes or other apparatus belonging to or maintained by the undertakers and includes any works constructed for the lodging therein of apparatus;

" the undertakers " means the lord mayor, aldermen and citizens of the city of Birmingham, the South Staffordshire Waterworks Company and the West Midlands Gas Board or any of them:

(2) The provisions of section 26 of the Public Utilities Street Works Act, 1950, shall apply in relation to the execution of the works authorised by section 20 (Power to execute works) and section 22 (Subsidiary powers) of this Act as if such works were works to which the said section 26 applies and as if any apparatus were apparatus to which that section applies:

PART IV —*cont.*

(3) Any alteration of any apparatus which the Corporation propose to make pursuant to section 22 (Subsidiary powers) of this Act shall, notwithstanding the provisions of that section or of section 26 of the Public Utilities Street Works Act, 1950, be executed by the undertakers and the reasonable expenses incurred by the undertakers in or in connection with the execution of any such alteration shall be repaid to the undertakers by the Corporation:

Provided that when requested so to do by the Corporation the undertakers, subject to the provisions of the said section 26, shall commence the execution of any such alteration, and shall complete the same, with all reasonable dispatch, and if the undertakers do not commence the execution of such alteration, or do not complete the same, with all reasonable dispatch, the Corporation may, subject to the provisions of the said section 26, after giving reasonable notice to the undertakers, themselves execute such alteration:

(4) Any difference arising between the Corporation and the undertakers under this section (other than a difference as to the meaning or construction of this section) shall be referred to arbitration.

For protection of Trent River Board.

32. For the protection of the Trent River Board (in this section referred to as " the board ") the following provisions shall unless otherwise agreed in writing between the Corporation and the board apply and have effect:—

(1) In this section—

" authorised work " means any work carried out by the Corporation pursuant to the powers conferred upon them by section 20 (Power to execute works) and paragraphs (*a*), (*b*), (*c*) and (*e*) of subsection (1) of section 22 (Subsidiary powers) of this Act but does not include any work to be constructed by the Corporation in pursuance of paragraph (4) of section 33 (For protection of International Alloys Limited) of this Act in constructing Work No. 2 by this Act authorised;

" construct " includes replace, alter and renew:

(2) Before commencing to construct an authorised work the Corporation shall submit to the board for their reasonable approval sufficient plans, sections and particulars relating thereto:

Provided that if within twenty-eight days after the submission to them of such plans, sections and particulars the board do not signify in writing to the Corporation their disapproval thereof they shall be deemed to have approved thereof:

PART IV —*cont.*

(3) An authorised work shall not be constructed otherwise than in accordance with such plans, sections and particulars as may be approved (or are deemed to be approved) by the board or, if such approval be withheld, as may be settled by arbitration and shall be constructed to the reasonable satisfaction of the board:

(4) The Corporation shall at all reasonable times afford to the engineer to the board or his duly authorised representative access to the authorised work during its construction for the purposes of inspection:

(5) Any difference arising between the Corporation and the board under this section (other than a difference as to the meaning or construction of this section) shall be referred to arbitration.

For protection of International Alloys Limited.

33. For the protection of International Alloys Limited, their successors, assigns, tenants and licensees (all of whom are in this section referred to as " the company ") the following provisions shall, unless otherwise agreed in writing between the Corporation and the company, apply and have effect:—

(1) In this section the " signed plan " means the plan signed in duplicate by John Paul Holden on behalf of the Corporation and by Henry John Cook on behalf of the company, one copy of which has been deposited with the town clerk and the other copy with the company:

(2) Notwithstanding anything contained in this Act or shown on the deposited plans or the deposited sections the Corporation shall not under the powers of this Act acquire compulsorily any part of the lands respectively numbered on the deposited plans 50, 51, 52 and 73 in the borough except—

(*a*) so much thereof as is shown coloured red on the signed plan; and

(*b*) under the powers of section 12 (Power to acquire easements only) of this Act a right of access with or without vehicles, plant or equipment across the said lands numbered 50 for the purpose of constructing, maintaining, repairing or renewing Work No. 2 by this Act authorised or of doing any other thing necessary in connection with that work:

(3) The Corporation shall in accordance with plans, sections and particulars to be previously submitted to and reasonably approved by the company and to the reasonable satisfaction of the company construct and thereafter to the like satisfaction maintain—

(*a*) two vehicular crossings across the said Work No. 2 at such places on the said lands numbered 51; and

PART IV —*cont.*

(*b*) a vehicular crossing across the said Work No. 2 at such place on the said lands numbered 73 near the cascade chamber shown on the deposited plans and sections;

as may be agreed between the Corporation and the company or, in default of agreement, determined by arbitration as hereinafter provided and the company, their officers, servants and employees shall at all times be entitled to pass and repass over the said crossings with or without vehicles, equipment or plant:

(4) For the protection of the water supply to the company now enjoyed under their existing rights the Corporation in constructing Work No. 2 by this Act authorised shall also in accordance with plans, sections and particulars previously submitted to, and reasonably approved by, the company, construct, at the option of the Corporation, either—

(*a*) a weir to secure that there shall be diverted into the existing course of the brook such quantity of water as the company may require or the actual flow in the brook, whichever is the less; or

(*b*) a pumping station at the said cascade chamber and, on the property of the company, adequate storage facilities, together with all such works, plant or machinery as shall be necessary to enable the company to obtain from the brook as diverted under the powers of this Act up to two hundred and twenty-five thousand gallons of water per day of twenty-four hours measured from midnight to midnight and at a maximum rate of eighteen thousand seven hundred and fifty gallons per hour at such times as that quantity is available in the brook and to deliver the said water to the point marked B on the signed plan:

(5) All works constructed and all machinery and plant provided by the Corporation pursuant to sub-paragraph (*b*) of paragraph (4) of this section shall, after completion but without payment therefor to the Corporation, vest in and become the property of the company:

(6) If the Corporation construct the works referred to in the said sub-paragraph (*b*) of paragraph (4) they shall pay to the company in the form of a capitalised sum the expenses incurred by the company in operating or maintaining those works:

PART IV —*cont.*

(7) The Corporation shall execute all such works and do all such things as may be necessary for securing—

(*a*) the proper and efficient drainage, as existing at the passing of this Act, of the works and premises of the company; and

(*b*) (in the event of the Corporation filling in any portion of the brook situate on the lands of the company) the drainage, as existing at the date of filling, of the lands draining into the portion so filled in:

(8) Any difference arising between the Corporation and the company under this section (other than a difference as to the meaning or construction of this section) shall be referred to arbitration.

Arbitration.

34. In arbitrations under any provision of this Act the reference shall be to a single arbitrator to be appointed by agreement between the parties, or, in default of agreement, to be appointed by the President of the Institution of Civil Engineers on the application of any party after giving notice in writing to the other party or parties.

Saving for town and country planning.

35. This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act, 1947, for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

Costs of Act.

36. The costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act shall be paid by the Corporation.

SCHEDULE

Section 28.

SECTIONS OF PUBLIC HEALTH ACT, 1936, APPLIED

Section	Marginal note
271	Interpretation of " provide ".
283	Notices to be in writing; forms of notices, &c.
284	Authentication of documents.
285	Service of notices, &c.
286	Proof of resolutions, &c.
288	Penalty for obstructing execution of Act.
296	Summary proceedings for offences.
297	Continuing offences and penalties.
304	Judges and justices not to be disqualified by liability to rates.
328	Powers of Act to be cumulative.

Table of Statutes referred to in this Act

Short title	Session and chapter
Lands Clauses Consolidation Act, 1845 ...	8 & 9 Vict. c. 18.
Railways Clauses Consolidation Act, 1845	8 & 9 Vict. c. 20.
Lands Clauses Consolidation Acts Amendment Act, 1860	23 & 24 Vict. c. 106.
Telegraph Act, 1878	41 & 42 Vict. c. 76.
Sutton Coldfield Corporation Act, 1903 ...	3 Edw. 7 c. clxxii.
Acquisition of Land (Assessment of Compensation) Act, 1919	9 & 10 Geo. 5 c. 57.
Sutton Coldfield Corporation Act, 1920 ...	10 & 11 Geo. 5 c. lxxviii.
Mines (Working Facilities and Support) Act, 1923	13 & 14 Geo. 5 c. 20.
Sutton Coldfield Corporation Act, 1930 ...	20 & 21 Geo. 5 c. lxxxv.
Local Government Act, 1933	23 & 24 Geo. 5 c. 51.
Public Health Act, 1936	26 Geo. 5 & 1 Edw. 8 c. 49.
Borrowing (Control and Guarantees) Act, 1946	9 & 10 Geo. 6 c. 58.
Town and Country Planning Act, 1947 ...	10 & 11 Geo. 6 c. 51.
Lands Tribunal Act, 1949	12 & 13 Geo. 6 c. 42.
Public Utilities Street Works Act, 1950 ...	14 Geo. 6 c. 39.
Town and Country Planning Act, 1954 ...	2 & 3 Eliz. 2 c. 72.
Town and Country Planning Act, 1959 ...	7 & 8 Eliz. 2 c. 53.

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ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short and collective titles.
2. Division of Act into Parts.
3. Incorporation of Acts.
4. Interpretation.

PART II

LANDS

5. Power to acquire lands.
6. Correction of errors in deposited plan and book of reference.
7. Acquisition of part only of certain properties.
8. Power to expedite entry.
9. Power to enter for survey or valuation.
10. Disregard of recent improvements and interests.
11. Extinction of private rights of way.
12. Power to acquire easements only.
13. Grant of easements by persons under disability.
14. Provision of substituted sites.
15. Power to reinstate owners or occupiers of property.
16. Agreements with adjoining owners.
17. Reservation of easements, etc., by Corporation.
18. Development of land.
19. For protection of Birmingham Corporation.

PART III

PLANTS BROOK IMPROVEMENT

20. Power to execute works.
21. Power to deviate.
22. Subsidiary powers.

Section

23. Works on bed of brook.
24. Underpinning of buildings.
25. For protection of Postmaster-General.

PART IV

FINANCE AND MISCELLANEOUS

26. Power to borrow.
27. Amendment of section 116 of Sutton Coldfield Corporation Act, 1930.
28. Application of general provisions of Public Health Act, 1936.
29. Saving for Secretary of State for Air.
30. For protection of British Transport Commission.
31. For protection of certain statutory undertakers.
32. For protection of Trent River Board.
33. For protection of International Alloys Limited.
34. Arbitration.
35. Saving for town and country planning.
36. Costs of Act.

SCHEDULE—Sections of Public Health Act, 1936, applied