

CHAPTER 522

THOROUGHFARES

Ordinances AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO PUBLIC
Nos. 10 of 1861,
3 of 1883,
31 of 1884,
17 of 1885,
10 of 1887,
10 of 1902,
25 of 1906,
23 of 1910,
6 of 1913,
5 of 1915,
22 of 1918,
9 of 1925,
18 of 1927,
22 of 1928,
13 of 1929,
I 1 of 1932,
II of 1936,
12 of 1940,
58 of 1942,
50 of 1943,
19 of 1944,
3 of 1946,
18 of 1947,

Acts
Nos. 11 of 1951,
28 of 1953,
46 of 1953,

Law
No. 37 of 1973.

[1st January, 1862.]

Short title. 1. This Ordinance may be cited as the
Thoroughfares Ordinance.

Council or Town Council, unless it
is a principal thoroughfare within
the meaning of this Ordinance ; or

Application of
Ordinance. 2. (1) Subject as hereinafter provided,
this Ordinance shall apply to and in relation
to all roads and thoroughfares in Sri
Lanka :

(c) to any road which is for the time
being maintained by a Village
Council.

Provided, however, that nothing in this
Ordinance shall apply-

(2) Where any road is maintained by any [§ 2, Law 37 of
1973.]

(a) to any street (as defined in the
Municipal Councils Ordinance)
within the administrative limits of
any Municipal Council, unless it is
by Order made by the Minister and
published in the Gazette withdrawn
from the jurisdiction of the
Council ; or

Highways or a Department of a Director of
Works, the Minister may by Order
published in the Gazette declare that, for the
purposes of the application of this
Ordinance with respect to such road, this
Ordinance or any specified provision thereof
shall have effect subject to the modification
that the powers or functions conferred by
this Ordinance or by such specified
provision shall be exercised and discharged
by specified officers of such department.

(b) to any street (as defined in the Urban
Councils Ordinance or in the Town
Councils Ordinance) within the
administrative limits of any Urban

3. All notices required to be given by Language of
this Ordinance shall be in the Sinhala and notices, and
Tamil languages ; and every notice addressed how served.

to any person may be served either personally upon such party, or by leaving it with some member of his household, or by affixing it to some conspicuous part of his residence.

Appointment and powers, &c., of officers and servants.
[§ 3, Law 37 of 1973.]

4. (1) There may be appointed all such officers and servants as may be necessary for the purposes of this Ordinance.

(2) Subject to the general direction and control of the Secretary to the Ministry charged with the subject of Highways, the Director of Works of each region and the Executive Engineer of each division shall be responsible for the administration of this Ordinance in his region or division.

(3) In this Ordinance-

@) "region", when used with reference to a Director of Works or a Superintending Engineer, means the area for which he is appointed ;

(b) "division", when used with reference to an Executive Engineer, means the area for which he is appointed.

GENERAL PROVISIONS

Minister to declare principal thoroughfares.

5. It shall be lawful for the Minister by Order to declare that any road, canal, or river shall be deemed to be a principal thoroughfare for the purposes of this Ordinance, and such road, canal, or river shall from the time specified in such Order be deemed to be a principal thoroughfare accordingly :

Provided that all roads, rivers, lakes, and canals which have been declared principal roads, rivers, lakes, or canals under Ordinance No. 8 of 1848*, shall be deemed principal thoroughfares for the purposes of this Ordinance.

Minister may order road to be stopped up or diverted, and substitute shorter or more commodious course, and order road to be widened and enlarged.

6. It shall be lawful for the Minister, and on the application of the Director, to order that any existing road or canal be stopped up, diverted, or turned, and to substitute some shorter or more commodious course for any road or canal so diverted or turned, as the public advantage may require ; and it shall also be lawful for the said Minister to order any

new road to be opened, or any road to be widened and enlarged, in such manner as he shall think fit ; and if in the execution of any such order it shall become necessary to take possession for the public use of the land of any person, it shall be lawful for the Director or Superintending Engineer, and he is hereby empowered, subject to the approval of the Minister, to make an agreement on behalf of the Government with the owner for the recompense to be made for such land, and for any building, tree, or fence thereon, either by allowing him to possess the ground, or part of the ground, of the former road, or by the grant of other State land in exchange, or by payment in money ; and the land of any person taken possession of by the Director or the Superintending Engineer in pursuance of such agreement shall vest in the Government, without any formal transfer thereof, and the certificate of the Director or Superintending Engineer that any person has been allowed by the Minister to possess any part of the ground of the former road or other State land, together with a survey thereof, shall be a sufficient title of the right of such person to the same ; and if the Director or Superintending Engineer cannot agree with such owner as to the recompense to be made, or if the owner cannot be found, or if it be not thought advisable to enter into any such agreement, then proceedings may be taken for obtaining possession of such land, and for compensating the owner, in the manner prescribed by any enactment in force at the time providing means for taking private lands for public uses.

Mode of ascertaining compensation to be given to owner of land taken for any such purpose.

7. (1) It shall be lawful for the Director or the Superintending Engineer, on behalf of the Government, to make and enter into, perform and execute, and compel the performance and execution of all such contracts and agreements, matters and things, as may be necessary for the purposes of this Ordinance.

Contracts and agreements.

(2) The Director or the Superintending Engineer on behalf of the Government may, subject to the provisions of any special enactment in that behalf and subject to the approval of the Minister, enter into agreement with any person or body of

* Repealed by Ordinance No. 10 of 186 1.

persons or any local authority constituted by law (hereinafter referred to as the " promoters ") to authorize such promoters, for the purposes of any system of tramways, of any supply of gas, water, or any other public service, or any private enterprise or object, to make such user of any road or thoroughfare to which this Ordinance applies, and to execute all such works and to set up or to maintain all such erections or plants therein as may appear to the Director or the Superintending Engineer to be necessary for the purposes of the effective establishment or maintenance or the modification or development of such public service or such enterprise or object.

EXECUTION OF WORKS

Management of works on roads and other powers to be vested in Director.
[§ 4, Law 37 of 1973.]

8. The direction and control of all work to be undertaken under this Ordinance upon any road shall be vested in the Director.

Proper officers empowered to enter upon lands for repair, &c., of thoroughfares.

9. It shall be lawful for the officer in charge of any work to which this Ordinance is applicable, and for the servants, workmen, and labourers employed by or under him, at all times, and with all necessary and proper carriages and animals and other means, to enter upon any land adjacent or near to any existing or intended thoroughfare, and there severally to do and perform all acts, matters, and things necessary for the purpose of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing any such thoroughfare, or for building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith, or for performing any act, matter, or thing under the provisions of this Ordinance.

Officer may enter any land with workmen, &c., and take materials.

10. It shall be lawful for any such officer, with the servants, workmen, and labourers employed by or under him, at all reasonable times and with all necessary and proper carriages, animals, and other means, to search for, dig, cut, take, and carry away any water, timber, brushwood, stone, gravel, clay, or any other materials whatsoever, for the purpose of tracing,

measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing, or in any way assisting in the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing any existing or intended thoroughfare ; or of building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith ; or for the construction or repair of any lines or any buildings whatsoever required on or near any such thoroughfare for the use of any officer as aforesaid, or any workmen, animals, carriages, persons, or things employed in his service, in and from any land adjacent or near to any such thoroughfare, and to carry away the same through the ground of any person, without being deemed a trespasser :

Provided that no such materials shall be dug for, cut, or taken away, upon or from any yard, avenue to a house, or lawn, or any inclosed garden, plantation, field, or wood without the consent of the owner thereof, unless sufficient materials cannot conveniently be obtained from the neighbouring waste lands, or common, or abandoned grounds, in which case the said officer may take any of such materials where he can conveniently procure the same ;

Provided also that reasonable compensation for all materials so taken, and for the damage done by the getting and carrying away the same, shall be made to the owner thereof; and

Provided further that such officer shall rail or fence off any quarries or pits from which any such materials shall be taken, so that the same shall not be dangerous to any person or animal.

11. It shall be lawful for any such officer when tracing, measuring, making, working, opening, altering, turning, repairing, clearing, or improving any existing or intended thoroughfare, or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith, to make and erect temporary buildings on any land adjacent or near thereto for the accommodation of such

Officer may erect temporary building on any land ;

officer, or for the accommodation of the servants, workmen, labourers, animals, carriages, or things employed by him during the progress of the work ; and to keep duly tethered and stabled all such oxen, horses, and animals as may be employed by him upon any lands near or adjacent thereto, and to continue so to keep the said oxen, horses, and animals on such lands and for such time as may be necessary :

Provided that no such buildings shall be erected, nor any such oxen, horses, or other animals kept on any land which shall be under cultivation, nor where there are neighbouring waste lands or common or abandoned grounds available for the purpose ; and

Provided further that reasonable compensation for any damage done to the land shall in all cases be made to the owner thereof.

12. In the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, or improving any existing or intended thoroughfare, or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith, it shall and may be lawful for any such officer to throw upon any lands adjacent or near thereto such earth, rubbish, or materials as it shall or may be necessary to remove from the place of any such work.

13. It shall be lawful for any such officer to make a road through the grounds adjacent or near to any existing or intended thoroughfare during the execution of any work thereupon or in any way connected therewith ; provided such road shall not run over any ground whereon any building stands, nor over an inclosed garden or yard.

14. It shall be lawful for any such officer to cut and remove, and place upon any ground adjacent or near thereto, all trees, bushes, or shrubs, and all leaves or branches or roots of trees that shall grow in or overhang any thoroughfare or cause any obstruction therein, and for that purpose to enter upon any land or premises with such persons, animals, and instruments as may be necessary, and to proceed to do therein all

such things as may be necessary for the cutting, lopping, or removing of such trees, bushes, shrubs, leaves, branches, or roots.

15. It shall be lawful for any such officer to put up or make fences, hedges, ditches, drains, or banks by the side of any thoroughfare, whenever to him it shall appear necessary, and the owners or occupiers of land adjoining such fences, hedges, ditches, drains, or banks shall, and they are hereby required to keep the same in good and substantial repair and order.

16. Every such officer shall have power to make, scour, cleanse, and keep open all ditches, gutters, drains, or watercourses, and also to make and lay such trunks, tunnels, plats, or bridges as he shall deem necessary for the protection, preservation, improvement, repair, or construction of any road or canal in and through any lands or grounds adjoining or lying near to such road or canal or intended road or canal.

17. Every such officer shall have power to lay any heap of stone or gravel, or any log of wood, or any other matter or thing whatsoever, upon any road, and to allow the same to remain there during the time such road is under repair, and for such time before the repairs are commenced, and after the repairs are completed, as may be necessary for facilitating the making of such repairs, or for preventing damage to such recently repaired road, but he shall take due and reasonable precautions for preventing danger or injury to persons passing along such road.

18. Every person who shall sustain any loss or damage by reason of the exercise of any of the powers and authorities conferred by this Ordinance upon officers in charge of works to which it is applicable shall be entitled to receive compensation for the same ; provided he shall make application in that behalf to the Superintending Engineer or the Executive Engineer at any time before the expiration of three months after the act, matter, or thing in respect of which such damage shall be alleged to have been done, and if he shall fail to make such application within the aforesaid period his claim to compensation for the alleged injury may be disallowed, and he shall be barred

and keep cattle; &c.

Officer may throw rubbish upon any land.

Officer may make temporary road.

Officer may cut trees.

Officer may put up fences.

Officer may make and keep open ditches, &c., and lay trunks, &c.

Officer may lay stones, &c., on road.

Compensation for injury to property by authorized officers.

Reference to arbitration. from recovering the same ; and the amount of compensation, if the same cannot be agreed to, may be decided by arbitration, the Superintending Engineer naming one arbitrator and the person claiming compensation another. If the two arbitrators cannot agree they shall appoint an umpire, and the award of the arbitrators or umpire, to be given in terms of the reference to be agreed to by the parties, shall be final.

Vexatious conduct of officer. 19. Every person acting under the authority of this Ordinance who shall, under pretence of performing any act under the authority of this Ordinance, use any unnecessary violence or give any **uncalled-for** and vexatious annoyance, shall be guilty of an **offence**, and be liable on conviction thereof to any fine not exceeding fifty rupees.

ENCROACHMENTS

Superintending or Executive Engineer may in certain cases demand production of title deeds ; 20. And whereas the line of many thoroughfares has been altered to suit the purposes of private parties, and many obstructions and encroachments have been made in and upon the said thoroughfares to the great inconvenience and injury of the public : It is enacted that whenever it shall appear to the Superintending or Executive Engineer that any building, inclosure, or obstruction shall have been raised or made in any thoroughfare, or on any waste or other ground immediately adjoining thereto and belonging to the State, it shall be lawful for such Engineer to demand in writing of the person claiming to be the owner of the premises on which such building, inclosure, or obstruction shall have been raised or made, the production of every deed, document, and instrument upon which such person founds such claim ; and if the occupier of such premises, not being himself the alleged owner shall refuse to give full information respecting the name and residence of such alleged owner, upon being requested so to do by such Engineer, or if such alleged owner shall refuse to produce within ten days after being requested so to do every deed, document, and instrument upon which he founds his claim to the said premises, and which shall be in his possession, or, if any such deed, document, or instrument shall not be in his possession,

shall refuse fully to inform such Engineer, upon application, in whose possession they are ; or if any person having in his possession any such deed, document, or instrument shall refuse to produce the same within ten days after having been requested so to do in writing by such Engineer, every such occupier, alleged owner, and person so refusing shall be liable to a fine not exceeding fifty rupees ; and it shall be lawful for such Engineer, or any person thereto authorized by him, to enter upon any premises upon which any such building, inclosure, or encroachment shall have been raised or made as aforesaid, and upon any other premises whatsoever which it may be necessary to enter for the purposes of the survey hereinafter mentioned, and to make such survey of all such premises as may be necessary to enable such Engineer to ascertain whether such building or inclosure is an encroachment upon any thoroughfare, or upon any land adjoining thereto and belonging to the State.

and make survey of premises.

21. The deeds, documents, and instruments in section 20 mentioned shall be produced on the premises to which the same may relate, or at such other place as the Superintending or Executive Engineer may require and the power of demanding the production thereof in section 20 given, shall be deemed and taken to include the power of making such examination of such deeds, documents, and instruments as shall be necessary ; and every person refusing or failing to permit such examination of any such deed, document, or instrument to any party authorized under this Ordinance to demand production thereof, and making such demand, shall be liable to any fine not exceeding fifty rupees.

Demand of production of deed to include power of examination.

22. It shall not be lawful for any person to commence any building, wall, or fence along any thoroughfare, or to place any temporary fence or inclosure on any such thoroughfare, for commencing or repairing any such building or wall, without giving one calendar month's previous notice in writing to the Executive Engineer of the district within which such building, wall, fence, or inclosure is about to be commenced, and any person neglecting to give such notice, or to remove the said building, wall, or fence on being required in

Notice of intended building along a thoroughfare

writing to do so by the Executive Engineer, shall be guilty of an offence, and be liable to a fine not exceeding fifty rupees, and to a further fine not exceeding twenty rupees for each day he suffers or allows such building, wall, or fence to remain after being required to remove the same as aforesaid ; and it shall be lawful for the Executive Engineer with the sanction of the Superintending Engineer, to cause any building, wall, fence, or inclosure, commenced or erected without such notice, to be removed, and to recover the costs of such removal in the manner provided in section 33 for the recovery of the costs therein mentioned :

Provided that nothing herein contained shall be deemed to deprive the Superintending or Executive Engineer of the power hereinafter conferred on them of removing any such building, wall, fence, or inclosure, if the same be ultimately discovered to be an encroachment, notwithstanding that no proceeding shall have been taken by them on the said notice.

23. Nothing herein contained shall be construed to prevent any public officer, duly authorized in that behalf, from making temporary use of any part of any thoroughfare for the public service, nor to prevent the Executive Engineer from granting his licence to the inhabitants for the erecting of temporary fences and inclosures, in order to the building, pulling down, or repairing of their houses and other buildings, or of temporary decorations, within such province or district, provided the length and breadth of such inclosures be described in such licence, and that there be sufficient room for carriages and carts or boats, to pass :

Provided that the person obtaining such licence shall immediately after sunset, during all the time that the inclosure shall continue, if so required by the Executive Engineer in such licence, place and keep a sufficient light upon the premises till daybreak, and any person removing or extinguishing such light during such time shall be liable to a fine not exceeding ten rupees.

24. (1) It shall not be lawful for any Building limits person, at any time after the 15th day of along roads. February, 1943—

- (u) except under the authority of a licence granted by the Executive Engineer of the district, to erect any building, boundary wall or gateway within a limit, (hereinafter referred to as the " building limit "), of twenty-five feet from the centre of any road in charge of the Department of Highways or a Department of a Director of Works and used or intended for vehicular traffic ; or
- (b) except under the authority of a licence granted by the Executive Engineer of the district, to re-erect, or to make any addition to, any building, boundary wall or gateway within the building limit of any such road :

Provided, however, that nothing in the preceding provisions of this subsection shall be deemed to apply to any repairs effected in any building, boundary wall or gateway existing on the date aforesaid.

For the purposes of this subsection, " repairs " shall not be deemed to include any work of re-erection or reconstruction or the addition of any new part.

(2) (a) No licence for the erection of any building, boundary wall or gateway shall be granted under subsection (1) by the Executive Engineer unless he is satisfied that the foregoing prohibition against the erection of any building, wall or gateway within the building limit will cause serious hardship to the owner of the land on which such building, wall or gateway is to be erected, and unless the written consent of the Director to the grant of the licence is obtained. The Director shall not give such consent unless he is satisfied, having regard to the width of the road, the visibility available for traffic and the proper upkeep of the road, that" the enforcement of the aforesaid prohibition is not for the time being essential.

(b) It shall be a condition of any licence granted by the Executive Engineer under subsection (1) for the erection of any

Where the erecting of temporary fences and inclosures is allowed.

building, boundary wall or gateway within the building limit, that no compensation shall be payable-

(i) in respect of such building, wall or gateway or part thereof within such limit if possession for the public use is taken at any time under section 6 of this Ordinance of the land on which such building, wall or gateway is situated, or if such land is acquired under the Land Acquisition Act, or

(ii) after the severance or removal of such building, wall or gateway or part thereof within such limit, in respect of any improvement or adaptation of the remaining part of such building, wall or gateway for any purpose whatsoever.

(c) It shall be a condition of any licence granted by the Executive Engineer under subsection (1) for the re-erection of, or for any addition to, any building, boundary wall or gateway that if possession for the public use is taken at any time, under section 6 of this Ordinance, of the land on which such building, wall or gateway is situated, or if such land is acquired under the Land Acquisition Act, the compensation payable in respect of such building, wall or gateway shall be determined in accordance with the provisions of section 27.

(3) (a) Full particulars of every licence granted under subsection (1), including particulars of the condition set out in subsection (2) and of the land and the building, boundary wall or gateway to which the condition relates and the value thereof shall be entered by the Executive Engineer in a register to be kept for the purpose at his office ; and the Executive Engineer shall cause a certified copy of every such entry to be registered in the office of the Registrar of Lands of the place in which such land is situate. The Registrar of Lands shall register all such copies free of any charge or duty.

(h) Upon the registration of any entry under this subsection, the condition of the licence set out in such entry shall be binding upon the land and the building, wall or

gateway affected thereby in accordance with the tenor of such condition, into whosoever ownership or possession the land or building or wall or gateway may at any time pass.

(c) Every register kept under paragraph (a) at the office of the Executive Engineer shall be made available for inspection to any person interested at any time when the office is open for the transaction of business.

(d) The provisions of section 2 of the Prevention of Frauds Ordinance shall not apply in the case of any entry or any copy of any entry referred to in this subsection.

(4) Subject to the condition referred to in subsection (2), any person who is otherwise entitled to re-erect or make any addition to any building, boundary wall or gateway shall be entitled to a licence to re-erect or make such addition to such building, wall or gateway within the building limit :

Provided that no part of the building, wall or gateway so re-erected or added to shall, upon such re-erection or addition, extend nearer to the centre of the road than it so extended in its original condition.

(5) The expression "re-erect", with reference to a building, includes the restoration of any wall forming part of the building or of any support to the building which has been demolished or otherwise destroyed to or within a distance of five feet from the ground, but does not include any operation which, in the opinion of the Executive Engineer, may reasonably be considered to be a repair to the wall or support.

25. The Minister may, upon the Modification of the Director, by Notification published in the Gazette, modify or extend the building limit in respect, of any road or any part of any road in charge of the Department of Highways or a Department of a Director of Works and situated in that district; and for the purposes of the application of the provisions of this Ordinance relating to the building limit along roads, the building limit along such road or part of a road shall be the

building limit as so modified or extended by the Minister :

Provided, however, that the Director shall, before recommending any such modification, have regard to the convenience of the public, and to the need for preserving the amenities of the locality and for ensuring that the modification will not increase the cost of any proposed scheme for the development, diversion or enlargement of the road, or any part of the road, which will be affected by such modification.

26. (1) If any person erects or re-erects any building, boundary wall or gateway or makes any addition to any building, boundary wall or gateway in contravention of any of the provisions of section 24, the Executive Engineer shall be entitled to cause such building, wall or gateway to be demolished or removed by any officer or servant appointed under this Ordinance, and for that purpose, the Executive Engineer or any such officer or servant shall have the same rights of entry and survey and the same powers of removal, abatement and recovery of costs as in the case of an obstruction or encroachment upon a road, and all the provisions of this Ordinance relating to such obstructions and encroachments, so far as they are applicable, shall apply accordingly with such modifications as may be necessary.

(2) Without prejudice to the provisions of subsection (1), the Executive Engineer may by order in writing served on any person who has contravened any of the provisions of section 24, require such person to demolish or remove or as the case may be, to restore to its original condition, the building, boundary wall or gateway in respect of which the contravention was committed, within such time as may be specified in the order, and if such person fails to comply with the requirements of the order within the time specified therein, he shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty rupees and to a further fine not exceeding fifty rupees for each day during which he suffers or allows such building, wall or gateway to remain in contravention of such order. No order shall be made under this subsection except with the written consent of the Director.

27. Where any building, boundary wall or gateway which has been re-erected or added to under the authority of a licence under section 24, is situated on any portion of land of which possession for the public use is taken under section 6 of this Ordinance, or which is acquired under the Land Acquisition Act, the determination of the compensation payable in such case shall, notwithstanding anything to the contrary in that Act, be subject to the following provisions :---

Compensation in respect of land developed by buildings.

- (a) where the whole of the building or of any boundary wall or gateway is situated within the building limit, the value assigned to the building, boundary wall or gateway as distinct from the land acquired shall be the value entered in the register under section 24 (3) or the market value of the building, boundary wall or gateway at the time of the acquisition, whichever is the less, and for the purpose aforesaid, such market value shall be the difference between the market value of the building, boundary wall or gateway together with the land attached thereto, at the time of the acquisition, and the market value at that time of the land so attached as distinct from the building, boundary wall or gateway ;
- (6) where only a part of the building or of any boundary wall or gateway is situated within the building limit and the value entered in the register under section 24 (3) is the value of the entire building, boundary wall or gateway in accordance with subsection (2) (a) of section 28, the value assigned to that part of the building, boundary wall or gateway, as distinct from the land acquired, shall be the value so entered or the market value of the entire building, boundary wall or gateway at the time of the acquisition, whichever is the less, and for the purpose aforesaid, such market value shall be the difference between the market value of the entire building, boundary wall, or gateway together with the land attached thereto,

Powers of Executive Engineer upon contravention of section 24.

- at the time of the acquisition, and the market value at that time of the land so attached as distinct from the entire building, boundary wall or gateway ;
- (c) where only a part of the building or of any boundary wall or gateway is situated within the building limit and the value entered under section 24 (3) is the value of that part in accordance with subsection (2) (b) of section 28, the value assigned to that part of the building, boundary wall or gateway, as distinct from the land acquired, shall be the value so entered in the register or the value of the part of the building, boundary wall or gateway within the building limit at the time of the acquisition, whichever is the less, and for the purpose aforesaid, such value shall be the aggregate of-
- (i) the estimated cost of the severance and removal of that part of the building, boundary wall or gateway at that time ; and
- (ii) the estimated cost, in the case of a building, of adapting at that time the part of the building which will then remain to the purpose for which the building is used at that time, and in the case of a boundary wall or gateway, of completing at that time such additions or repairs as may be necessary ;
- (d) no compensation shall be allowed in respect of any building, wall or gateway erected, after the 15th day of February, 1943, within the building limit whether or not such erection was made under the authority of a licence under section 24, or in respect of any re-erection or addition made or effected thereto in contravention of that section ;
- (e) the value assigned to the land as distinct from the buildings thereon shall be the market value of the land at the time of the acquisition.
28. (1) The value of any building, boundary wall or gateway shall, for the purposes of subsections (2) and (3) of section 24-
- (a) be fixed by agreement between the Superintending Engineer and the owner or owners of the building, boundary wall or gateway ; or
- (b) where it is not so fixed by agreement, be determined by the arbitration of two arbitrators, one nominated by the owner or owners of the building, boundary wall or gateway, and the other by the Superintending Engineer, or if such arbitrators cannot agree upon the said value, by an umpire chosen jointly by the two arbitrators.
- (2) In determining the value of any building, boundary wall or gateway or any part thereof for the purposes of section 24 (2), the following principles shall be followed :-
- (u) where any building, boundary wall or gateway, or any part thereof the removal of which would render the remaining part useless, is situated within the building limit of any road, and where, for that reason, the removal of the entire building, boundary wall or gateway will become necessary in the event of the road being widened, the value of the entire building, boundary wall or gateway shall be determined ; and such value shall be the difference between the market value of the premises, that is to say, of the building, boundary wall or gateway together with the land attached thereto, at the time of the valuation, and the market value at that time of the land as distinct from the building, boundary wall or gateway ;
- (b) where only a part of a building, boundary wall or gateway is situated within the building limit of any road, and after the severance and removal of such part the remaining part will be capable of adaptation either to the original

purpose of the building, boundary wall or gateway or to any other purpose permitted by law, the value of the part within the building limit shall alone be determined ; and such value shall be the aggregate of-

- (i) the estimated cost of the severance and removal of that part of the building, boundary wall or gateway ; and
 - (ii) the estimated cost, in the case of a building, of adapting the part of the building which will then remain to the purpose for which the building is used at the time of the valuation, and in the case of a boundary wall or gateway, of completing such additions or repairs as may be necessary ;
- (c) where, at the time of the valuation of any building, boundary wall or gateway, the value of such building, boundary wall or gateway is found to have been increased by any alteration or improvement effected in the building, boundary wall or gateway after the 15th day of February, 1943, then notwithstanding that the alteration or improvement may have been authorized by a licence under section 24 (1), the amount of the increase shall not be taken into account unless the alteration or improvement was necessary for the maintenance of the building, boundary wall or gateway in a proper state of repair.

(3) Every award or agreement made or entered into, as the case may be, under subsection (1) in respect of the value of any building, boundary wall or gateway or part thereof, shall specify the particular paragraph or paragraphs of subsection (2) in accordance with which the value aforesaid was fixed or determined.

29. (1) Where the right of the owner of any land, part of which is situated within the building limit of any road, to erect a building on the land, is restricted by reason of the provisions of section 24, such owner

may, if he desires to erect a building, make application to the Superintending Engineer requiring that land at the rear of his land, of sufficient extent to afford him building facilities of the same nature as he would have enjoyed if the provisions of section 24 had not been in force, be acquired for him at his expense ; and the Minister may, upon the recommendation of the Superintending Engineer and after such inquiry as he may deem necessary, order that a specified extent of the land at the rear of the land of such owner shall be acquired for such owner, and the provisions of any written law relating to the acquisition of private land for public purposes shall thereupon apply for the purposes of the acquisition of such extent of land in like manner as if such extent of land were required for public purposes.

(2) All costs, charges, and other expenses incurred in the acquisition of any extent of land in pursuance of an order under subsection (1) shall be paid by the owner of the land upon whose application such extent of land is acquired.

30. (1) For the purposes of sections 24 Application of sections 24 to 29. a road shall be deemed to be in charge of the Department of Highways or a Department of a Director of Works if it is maintained by the Department of Highways or a Department of a Director of Works from funds provided out of the Consolidated Fund ; and a certificate under the hand of the Director to the effect that any road is in charge of the Department of Highways or a Department of a Director of Works shall be conclusive evidence of the fact that the road is so maintained.

(2) Nothing in sections 24 to 29 shall apply in the case of any building, boundary wall or gateway erected or re-erected, or proposed to be erected or re-erected-

- (a) along any principal thoroughfare which is situated in any town as defined in the Urban Councils Ordinance, or Town Councils Ordinance and in relation to which the provisions of sections 44 (2) and 45 (2) of those Ordinances respectively are applicable ; or
- (b) along any road in respect of which street lines providing for a roadway

Acquisition of adjacent land for owner of land affected by building limit .

exceeding fifty feet in width have been defined under section 19 of the Housing and Town Improvement Ordinance.

(3) For the purposes of sections 24 to 29 and of the foregoing subsections of this section, the expression " boundary wall " includes every structure of whatsoever material and in whatsoever manner constructed, and every fence of whatsoever description, which serves or is intended to serve the purposes of, a boundary wall.

31. (1) Whenever it appears to an Executive Engineer that the line of any thoroughfare in his district has been altered without proper authority, or has been stopped up, or obstructed, or encroached upon, the Executive Engineer shall give notice in writing to the occupier of the land from off which the said thoroughfares shall be alleged to have been turned, or upon which such stoppage or obstruction or encroachment shall be alleged to have been made, that a survey of the premises has been made by the authority of the Executive Engineer, and is open to the inspection of such occupier at a place to be therein mentioned, and that unless within one month from the service of such notice he or the person under whom he holds, shall take legal proceedings for establishing his title to such land, and for preventing the removal of any such obstruction or encroachment, the Executive Engineer will proceed with the removal thereof in manner provided by section 33 of this Ordinance ; and if no such legal proceedings are taken within the time specified, or being taken are not duly prosecuted, it shall be the duty of the Executive Engineer to cause any such obstruction or encroachment to be forthwith removed as hereinafter provided.

(2) Where legal proceedings are taken as aforesaid it shall be incumbent on the party claiming to be the owner of the land from off which the line of any thoroughfare has been alleged to have been altered or turned or upon which such stoppage or obstruction or encroachment shall be alleged to have been made, to prove his title to such land.

32. If any plan or survey made by the authority of the Director shall be proved in evidence in any proceeding under this Ordinance, such plan or survey shall be

deemed and taken to be conclusive proof of the facts exhibited therein, in so far as the claim of the State is considered unless satisfactory proof to the contrary shall be established by the party contesting such claim.

33. It shall be lawful for the Executive Engineer to give order verbally or by notice in writing, to any person obstructing or encroaching upon **any** thoroughfare, forthwith to remove or abate the same ; and if any such person to whom such order shall have been given shall refuse or neglect to comply with the same within a reasonable time, or if there be any doubt as to who is the proper person to whom such order should be given, it shall be lawful for the Executive Engineer to cause any such obstruction or encroachment to be forthwith removed or abated, and for that purpose it shall be lawful for the Executive Engineer, or any person thereto authorized in writing by the Executive Engineer where necessary, to enter into any house, garden, inclosure, or other premises, and to cause to enter therein such persons, with such instruments and things as may be necessary, and to proceed to do therein, or cause to be done, all such things as may be necessary for such removal or abatement; and upon the Executive Engineer certifying to the Magistrate's Court of the division where such person resides, or where such obstruction or encroachment existed, the costs which have been bona fide incurred in effecting such removal or abatement, such court shall summon the party, on account of whose noncompliance with any such order such costs were incurred, to appear before it on a certain day, then and there to make payment of the costs which shall appear to such court to have been properly incurred in that behalf ; and if such party shall refuse or fail to make such payment forthwith, or within such time as the court shall appoint, the court shall proceed to recover such payment in such and the same manner as it would proceed to recover any fine incurred under any sentence of such court :

Provided that if any removal shall be effected after the due production of all deeds, documents, and instruments affecting the title to such premises, and such premises shall nevertheless be adjudged to be the

Removal of obstructions or encroachments.

costs.

Proof of right to apparent encroachment to rest upon the owner.

Survey by proper officer to be conclusive evidence.

property of the party laying claim to the same, the Executive Engineer shall be liable in damages for all loss and injury occasioned thereby ; but if the party claiming to be the owner of such premises shall refuse or neglect to produce all such deeds, documents and instruments, or if such deeds, documents, and instruments shall not be produced within ten days after application in that behalf, and the Executive Engineer shall nevertheless have caused the removal of such building, inclosure, or encroachment, then in the event of such premises being adjudged to be the property of the party claiming to be the owner thereof the Executive Engineer shall not be liable in damages for any loss or injury occasioned thereby.

The law of prescription not to apply to roads.

34. Neither the provisions of the Prescription Ordinance nor those of any other law relating to the acquisition of rights by virtue of possession or user shall apply to roads ; and no person shall be entitled to any exclusive rights of ownership, possession, or user over or in respect of a road or any portion thereof by reason of his having, either before or after the coming into operation of this Ordinance, had possession or use, of any description whatsoever, of the same.

INJURIES TO THOROUGHFARES

Offences.

***35.** Whosoever shall commit any of the following **offences** on or relating to any thoroughfare shall be liable to a fine not exceeding fifty rupees :-

Destroying milestones, bridges, &c.

- (1) whosoever shall wilfully destroy, pull up, deface, throw down, break, or injure any milestone, milepost, lamp-post, or direction post, or any bridge, battlement, arch, wall, dam, drain, sluice, lock, bank, abutment, mound, prop, post, lamp, railing, chain, or fence belonging to any thoroughfare or put up at or near any pit or quarry opened or used for getting road materials ;

- (2) whosoever shall wilfully and unnecessarily remove any fence, post, stone, log, or other thing laid or put up by the authority of the Director, or of any Superintending or Executive Engineer, on or in any thoroughfare for the temporary prevention of the use thereof or for preventing danger or injury of persons passing along the same whilst undergoing repair ;

Removing fence, log, &c., put up or laid on thoroughfare to prevent temporarily its use.

- (3) whosoever shall, without such authority as aforesaid, gather or heap up to take away any stones, gravel, sand, or other material, or any **slutch**, dirt, drift, or soil from any thoroughfare ;

Taking away stones, gravel, &c.

- (4) whosoever shall lead or drive any ox, horse, pig, or other animal from or off or on or into any thoroughfare in such manner as to cause injury to the same, or shall suffer any such animal to damage the same ;

Injuring thoroughfare by driving ox, &c., from or on or into it.

- (5) any owner or occupier of any land contiguous to any road who shall suffer the passage of the water from such road or from any ditch or drain leading therefrom to be obstructed by making or leaving any way or passage from any road into the adjoining land, or into his house, without a sufficient sewer, gullet, or pipe underneath it ; or who shall suffer any water, filth, or other substance or thing to flow or run from such land or house into or upon any such road, or shall suffer any accumulation of dirt or rubbish in any drain opposite to his house or land to impede the flow of water ;

Suffering passage of water from road to be obstructed.

Suffering water, filth, &c., to flow upon road.

- (6) whosoever shall haul or draw upon any thoroughfare any timber, stone, or other thing otherwise than upon wheeled carriages, or shall suffer any timber, stone, or other thing which shall be carried principally or in part upon wheeled carriages, to

Hauling or trailing timber, &c.

* Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

drag or trail upon such thoroughfare to the damage thereof ;

Making any dam, ditch, drain, &c., upon or across any thoroughfare.

(7) whosoever shall make or cause to be made any dam, ditch, drain, or watercourse upon or across, or shall otherwise break up or injure, the surface of any thoroughfare ;

Attaching additions to the eaves of houses, or causing carts to be loaded or unloaded in front of dwelling, &c.

(8) whosoever shall attach additions to his house so as to project over the outer edge of the side drain of any road, or who shall by means of temporary supports or otherwise expose goods or wares of any description over any portion of a road or its side drain, or who shall by causing carts to be loaded or unloaded in front of his dwelling in any way injure the side drain.

Using new road for certain time after making.

***36.** It shall be lawful for the Executive Engineer to forbid all persons from riding or driving any kind of beast or carriage on any road for such space of time as shall to him appear necessary, not exceeding one month after such road shall have been made or repaired ; and any person who shall wilfully disobey such order (the same being duly notified by a notice affixed to a board or boards erected upon or near to such road) shall be liable to a fine not exceeding fifty rupees.

Owner or occupant bound to have bridge, &c., over drain leading to his house.

37. If the owner or occupant of any house or premises adjoining any road by the side of which a drain shall have been made or excavated shall require the means of access to such house or premises from such road, he shall be bound to place a bridge, platform, or arch, which shall in no case cover less than four feet of the length of such drain ; and it shall be lawful for the Executive Engineer, if it shall come to his knowledge that any parties have access to any house or premises so situated without such bridge, platform, or arch as aforesaid to call upon the owner or occupant thereof forthwith to construct the same, and if he shall fail to do so within a reasonable time, to cause the same to be done, and to recover the costs thereof in the manner provided in section 33 for the recovery of the costs therein mentioned.

NUISANCES ON THOROUGHFARES

***38.** Whosoever shall commit any of the Offences following offences shall, except where other provision is herein expressly made, be liable to a fine not exceeding fifty rupees :-

(1) whosoever shall turn or suffer to be turned loose any ox, horse, sheep, goat, or other animal of any description on to or into any thoroughfare or so that it makes its way on to or into any thoroughfare, or shall tie or tether or suffer to be tied or tethered any ox, horse, sheep, goat, or other animal of any description so that any such animal can or shall make its way on to or into any thoroughfare, unless such animal shall be so tied or tethered during the time required for loading or unloading it or for the loading or unloading of any cart or boat to which it may belong :

Turning cattle loose on road or canal.

Provided that where such animal is found on or in any thoroughfare, or tied or tethered so that it can make its way on to or into any thoroughfare, it shall be deemed to have been turned loose or suffered to be turned loose, or to have been tied or tethered or suffered to have been tied or tethered, as the case may be, by the owner thereof, unless he satisfies the court to the contrary ;

Tying cattle on or near road or canal.

(2) it shall and may be lawful for any person thereto authorized by the Executive Engineer to seize any ox, horse, sheep, or goat which he may find tied, tethered, or straying upon any thoroughfare within the province or division for which the Executive Engineer is assigned to act, unless any such animal belong to any cart or boat to which it is tied or tethered whilst the same is being loaded or unloaded :

Seizers of stray cattle.

Provided that if the person authorized as aforesaid shall not be a peace or police officer, every such animal seized by him shall be forthwith delivered into the custody of the nearest peace or police officer ; and every such officer seizing or receiving any such animal as aforesaid shall forthwith

* Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

report such seizure to the proper Magistrate's Court, and such court shall, if at the time of such report no claim be made to such animal, direct such officer to take the necessary steps for the safe custody and maintenance thereof, and to publish such seizure in the usual manner ; and no such animal seized as aforesaid shall be delivered to the owner thereof unless upon payment into such court of the sum of one rupee, or such other sum as the Minister by notification -in the Gazette, may fix from time to time, for the use of the person by whom the same shall have been seized, and of a further sum not exceeding thirty cents for each day during which the same shall have been kept in the custody of the said officer, for the use of such officer ; and if no person shall claim such animal or pay such dues as aforesaid within ten days after the animal shall have been so seized, it shall be lawful for such officer, and he is hereby required, to sell the same by public auction, and after payment of one rupee, or such other sum as the Minister, by notification in the Gazette, may fix from time to time, to the person by whom the same may have been seized, and of the sum due to himself for the custody and maintenance thereof, to pay the remainder of the produce of such sale, if any, to the Magistrate's Court to be credited to the Consolidated Fund ;

Destruction of stray pigs.

(3) any owner of a pig found tied, straying, burrowing, or wallowing in any road or canal shall be liable to a fine of one rupee and fifty cents ; and it shall be lawful for every person to seize or shoot or otherwise destroy any pig that he may find tied, straying, burrowing, or wallowing in any road or canal ; and such person may, if he choose, take such pig to any peace or police officer of the division in which the offence was committed, who shall forthwith sell the same, and pay the produce of such sale to such person ;

Interference with cattle seizures.

(4) whosoever shall remove any animal from the lawful custody of any person authorized to seize the same under paragraphs (2) and (3) hereof, or shall in any way molest or obstruct such person in the discharge of his duties ;

(5) whosoever shall hang up or otherwise expose any mats, cloths, or other substances on or at the side of any road, in a manner calculated to terrify horses or endanger the passengers ;

Hanging up mats, &c.

(6) whosoever shall leave, or permit to be left, on any road to which this provision shall be extended, as hereinafter mentioned, any cart or other carriage, without the oxen, horses, or other animals being yoked or harnessed thereto, unless such cart or carriage shall have accidentally broken down there ; and in case of such accident, for a longer time than may be necessary for its removal ;

Leaving carts on roads to which this provision is extended.

And it shall be lawful for the Minister by Notification to declare that the provisions of this subsection shall extend and be applicable to any road in Sri Lanka, or to any section of such road, whenever it shall appear to the said Minister that a sufficient number of halting places have been constructed along the same ; and thereupon such provision shall extend and apply to any road or section of a road, mentioned in such Notification ;

Minister by Notification may extend this provision to any road.

(7) whosoever shall drive any cart drawn by one or more bullocks, or suffer the same to remain in any thoroughfare between the hours of sunset and sunrise, without having a light attached thereto ;

Driving or leaving any cart in any thoroughfare without a light between sunset and sunrise.

(8) whosoever shall leave any boat or raft in any canal in such a way as to obstruct the passage on such canal ;

Leaving boat or raft, so as to obstruct passage on canal.

(9) whosoever shall lay or throw any stones, bricks, raft, timber, sand, lime, dung, straw, rubbish, or scourings of any ditch or drain or other object or thing, on or in any road, river, or canal, and shall allow the same to remain there, except for such a period as shall be absolutely necessary for the removal thereof;

Laying stones, timber, rubbish, &c., on any road or canal.

Persons placing stones upon roads at Jaffna.

And whereas it is customary in the cultivation of lands situated in the peninsula of Jaffna to remove the stones from the same from time to time, and whereas the stones so removed are frequently placed upon the roads : It is enacted that whenever any stones shall be found to be so placed upon any road within the division aforesaid, the placing thereof shall be deemed to be the act of the person in occupation of the land immediately adjoining, unless the contrary be proved, and such person shall be liable to the penalties herein provided ;

placed or continued as aforesaid to be pulled up or otherwise destroyed, and to recover the costs thereof in the manner provided in section 33 for the recovery of the costs therein mentioned :

Provided that nothing herein contained shall render any officer in charge of any work on any thoroughfare, or any road contractor, liable to any fine for any act done by such officer in the discharge of the duties of his office, or by such contractor in the necessary execution or performance of his contract ; but if any such officer or contractor shall lay or cause to be laid any heap of stones, gravel, rubbish, or other matter whatever upon any road, and allow the same to remain there at night, to the danger or personal damage of any person passing thereon (all due and reasonable precautions not having been taken by him to prevent any such danger or damage), such officer or contractor shall be liable to a fine not exceeding fifty rupees.

Road officer or road contractor not liable to fine except in certain cases.

Carrying timber, &c., crosswise.

(10) whosoever shall lead or drive on any road any cart or other carriage with timber, boards, iron, or other goods, so that either end shall project beyond the wheels or sides thereof ;

Encroachment on thoroughfare.

(11) whosoever shall encroach on any thoroughfare by making or causing to be made any building, platform, hedge, ditch, or fence or other obstruction upon or in any thoroughfare ;

39. It shall be the duty of all officers of the police force, and all grama seva niladharis, police, and peace officers generally, to aid and assist in the prevention of all offences against this Ordinance within their respective jurisdictions ; and every officer or grama seva niladhari who, being cognizant of any such offence, whether upon his own view or upon the information of others, shall fail to make complaint thereof before the duly constituted authority, or shall fail to act promptly and vigorously thereupon, shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding fifty rupees.

Police officers and grama seva niladharis to enforce provisions of Ordinance.

Leaving block on road.

(12) whosoever shall after having blocked or stopped any cart or other carriage in going up or down a hill or rising ground, cause or suffer to be or remain on any road the stone, timber, or other thing with which such cart or other carriage shall have been blocked or stopped ;

Preventing others from passing.

(13) whosoever shall in any manner wilfully prevent any other person, or any carriage, boat, raft, or other conveyance under his care, from passing along any thoroughfare ;

Erection of kraals in canals and rivers.

(14) whosoever shall place or continue any kraal or fence or any other obstruction in any canal or river, so as to impede or in any way interfere with the convenient navigation thereof ;

40. In the construction and for the purposes of this Ordinance (if not inconsistent with the context or subject-matter) the following terms shall have the respective meanings hereinafter assigned to them, that is to say :-

Interpretation.

“ canal ” means any public canal, and shall include the full extent of waterway from bank to bank, together with the sides, towing-paths, embankments, drains, and ditches thereto belonging ;

And it shall be lawful for the Executive Engineer to cause any such kraal, fence, or obstruction so

“ centre of the road ” shall be deemed to be the centre of the part thereof commonly used as a thoroughfare ;

[§ 5, Law 37 of 1973.1

“ Director ” means the Director of Highways and includes-

- (i) the Deputy Director of Highways,
- (ii) in respect of any power, duty or function of the Director of Highways under this Ordinance, **any** Assistant Director of Highways authorized in writing by such Director to exercise such power, perform such duty or discharge such function,
- (iii) the Director of Works having authority in the area concerned,
- (iv) the Deputy Director of Works having authority in the area concerned, and
- (v) in respect of any power, duty or function of the Director of Highways under this Ordinance, **any** Assistant Director of Works authorized in writing by the Director of Works to exercise such power, perform such duty or discharge such function of the Director of Highways ;

[§ 5, Law 37 of 1973.1

“ Executive Engineer ” means the Executive Engineer for **any** division ;

“ horse ” includes all animals except oxen commonly used in drawing any kind of carriage ;

“ householder ” means the owner, or part owner, or lessee, or principal occupant of the house in which such person resides ;

“ inhabitant ” means a person who, being in Sri Lanka, has resided therein for three months or upwards ;

“ ox ” includes buffalo and all cattle ;

“ resthouse ” includes **any** *ambalam*, *maddum*, or other public building for the shelter of travellers ;

“ river ” includes all public navigable streams, lakes, estuaries, creeks, and inlets of the sea, and all **towing**-paths and embankments thereto belonging ;

“ road ” includes-

- (a) all public carriageways, cartways, and pathways, as well as all bridges, drains, and embankments, causeways, and ditches belonging or appertaining to a road,
- (b) all land adjoining any road, which has been reserved for its protection or benefit,
- (c) all land which has been marked off and reserved for the construction of any road,
- (d) all waste land which, not being private property, lies within a distance of thirty-three feet of the centre of public carriageways and **cartways** and ten feet of the centre of public pathways, the burden of proving that such waste land is private property lying on the person asserting the same, and
- (e) all public squares, greens, market places, and other public places other than public buildings ;

“ Superintending Engineer ” means the [§ 5, Law 37 of 1973.] Superintending Engineer for any region ;

“ thoroughfare ” means any public road, canal, or river ;

“ town ” means any place within the limits of which a police force is or shall hereafter be established.