

Presented on 28th December, 1982.



SIXTH

GUJARAT LEGISLATIVE ASSEMBLY

REPORT

OF

SELECT COMMITTEE

ON

BILL NO. 51 OF 1982.

THE GUJARAT HIGHWAYS BILL

Printed and published under the authority of the Gujarat Legislative Assembly.

GUJARAT LEGISLATURE SECRETARIAT
GANDHINAGAR
DECEMBER, 1982.

Corrigenda
Highways Bill

Committee on Gujarat

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GUJARAT HIGHWAYS BILL

A BILL

to consolidate and amend the law providing for the construction, development and maintenance of highways, prevention and removal of encroachment thereon, for the prevention of ribbon development along highways and for certain other matters incidental thereto.

COMPOSITION OF SELECT COMMITTEE

Chairman

Shri Khodidan Zula, Minister for Buildings and Communication.

Members

Shri Jashwantsinh Chauhan,
Shri Vadilal Kamdar,
Shri Dinker Desai,
Smt. Ushaben Patel,
Shri Shashikant Lakhani,
Shri Virjibhai Dafda,
Shri Karamshibhai Makwana,
Shri Manjurusain Pirzada,
Shri Ramlal Ruplal,
Shri Prabhatsinh Parmar,
Shri Shantilal Patel,
Shri Harisinh Chavda,
Shri Ashok Bhatt,
Shri Becharbhai Palasana.

LEGISLATURE SECRETARIAT

Shri Dwijen Desai, Secretary,
Shri K. M. Panchal, Under Secretary,
Shri S. S. Makwana, Section Officer.

GOVERNMENT REPRESENTATIVES

Shri M. D. Patel, Secretary, Buildings and Communication Department,
Shri P. J. Mehta, Chief Engineer, Buildings and Communication Department,
Shri J. P. Vasavada, Joint Secretary, Legal Department.

REPORT OF THE SELECT COMMITTEE

I, as the Chairman of the Select Committee to which the Gujarat Bill No. 51 of 1982 (A Bill to consolidate and amend the law providing for the construction, development and maintenance of highways, prevention and removal of encroachment thereon, for the prevention of ribbon development along highways and for certain other matters incidental thereto) was referred, do hereby submit the following Report of the Committee along with the Bill, as amended by the Committee annexed hereto.

2. The Bill was introduced in the Gujarat Legislative Assembly on the 12th March, 1982. The Motion that the Bill be read a first time was moved in the House by Shri Khodidan Zula, Minister for Buildings and Communication on 15th July, 1982, and was discussed on 15th, 19th and 20th July, 1982. After the Bill was read for the first time Shri Khodidan Zula, Minister in Charge of the Bill moved the motion that it be referred to a Select Committee composed of 15 members, with the instructions to report to the House before 15th January, 1983. The motion was adopted by the House on the same day (*Appendix -I*). Hon'ble the Speaker appointed Shri Khodidan Zula, Minister in-charge of the Bill as Chairman of the Committee.

3. All notices of amendments to the Bill which were received from members, before the Bill was referred to the Select Committee, were referred to the Select Committee as required under rule 134(4) of the Gujarat Legislative Assembly Rules.

4. The Committee in all held 8 sittings. At its preliminary sitting held on the 9th August, 1982, the Committee decided to issue an advertisement intimating associations, organisations and members of the public who might desire to submit their views on the Bill before the Committee to send their views, suggestions or amendments and who might desire to appear personally before the Committee to communicate their desire so as to reach the Gujarat Legislature Secretariat on or before the 23rd August, 1982. Accordingly an advertisement was published in leading English and Gujarati newspapers. Similar communication was also issued to all the members of the Assembly by Bulletin Part-II.

5. In reponse to the advertisement, the Committee received 5 Memoranda from various persons and an organisation. A list of such persons/organisation who had communicated their views on the Bill is annexed hereto as Appendix-II. A list of persons who appeared personally before the Committee to place their views is also annexed hereto as Appendix-III.

6. After hearing the witnesses on 6th September, 1982 the Committee held its further sittings on 7th, 20th, 21st and 22nd September, and 18th October, 1982. The Committee at the aforesaid sittings considered each of the

clauses of the Bill in light of the memoranda and amendments suggested by various persons/organisations and members of the Legislative Assembly. The Committee also considered the similar provisions of the Draft Model Bill of the Indian Road Congress and the Bombay Highways Act, 1955. The Committee at its sitting held on 2nd December, 1982, considered and approved this Report.

7. The observations of the Committee with regard to the important amendments in the Bill are given in the succeeding paragraphs.

8. *Clause 2(1)-definition of "animal".*—This sub-clause provides a definition of "animal". While considering this definition, the Committee feels that the definition given in the bill is perfect and includes all animals. However, it seems to the Committee that it is desirable to specifically mention animals, viz. Cow, Buffalo and Bullocks in the definition so as to make it clear in the mind of general public. The Committee has, therefore, amended the definition suitably.

9. *Clause 2(8)-definition of "encroachment".*—In the definition of encroachment given in this sub-clause, it has been *inter-alia* provided that an unauthorised cultivation of land comprised in a highway or a portion thereof shall be regarded as encroachment. The Committee is of the view that this is a very important definition in this Bill because one of the purposes of this Bill is to remove encroachment along roadside. In this context the Committee considers that non-agricultural use of roadside-land should also be specifically included in the definition. The Committee has, therefore, amended paragraph (d) of this sub-clause so as to provide for agricultural and non-agricultural use of land comprised in a highway or a portion thereof.

10. *Clause 2(16)-definition of "means of access".*—In this definition, the Committee has substituted the word "pedestrians" for the phrase "foot passengers".

11. *Clause 2(17)-definition of "local authority".*—The definition of local authority given in the bill includes an area development authority and an Urban development authority constituted under the Gujarat Town Planning and Urban Development Act, 1976. It was brought to the notice of the Committee that Gujarat Slum Clearance Board, Gujarat Housing Board, Gujarat Rural Housing Board and Gujarat Industrial Development Corporation have also to construct and maintain roads within their areas. They also require approach roads for the speedy development of the area. In view of this, the Committee considers that in the interest of development of highways in the areas of these bodies, it is essential that they should have power of competent authority under the Act. This object can only be achieved by including these bodies in the definition of local authority. The Committee feels that over and above these four bodies, Government should be empowered to include other similar bodies in the local authority in future. The Committee has, therefore, amended the definition of local authority suitably.

12. *Clause 2(24) - definition of "Public Vehicle".*—It was brought to the notice of the Committee that the definition of "Public Vehicle" given in this sub-clause includes all vehicles used for the carriage of passengers or goods but it

does not include the vehicles which are used for both the purposes *i.e.* carriage of passengers as well as for carriage of goods. The Committee has therefore, inserted the words "or both" at appropriate place in the definition.

13. *Clause 3.*—As provided in this clause, the appointment of a highway authority is to be made by the State Government subject to such conditions and limitations as may be specified in the notification to be issued in this behalf. The Committee is of the opinion that provision should be made so as to lay this notification before the State Legislature as soon as possible after it is issued. The Committee, therefore, decided to substitute the words "as may be prescribed" for the words "as may be specified in the notification". This amendment would serve the purpose of the Committee because the notification issued under this clause prescribing the conditions and limitations would be required to be laid before the State Legislature under Clause 67. Consequential amendment in sub-clause (2) has also been made by the Committee.

14. *New Clause 5.*—It will be seen that there is a mention of "Declaration of Highways" in the heading of this Part. However, there is no corresponding clause in this part providing for declaration of Highways. The Committee feels that power to declare any road as highway should be given to the Government and new clause to that effect should be inserted in this Part. Accordingly new clause 5 has been inserted. Consequential amendment in the definition of "highway" has also been made by the Committee.

15. *Clause 6(1) of the present Bill and Clause 7 (1) of the amended Bill.*—Under this sub-clause, the highway authority is *inter-alia* empowered to prepare the scheme for the improvement of or repairs to an existing highway. While considering this sub-clause the Committee felt that it is not clear whether highway authority is empowered to prepare a scheme for alteration or change of direction of the existing highway. It was brought to the notice of the Committee that the term "improvement" includes alteration or change of direction. However, with a view to make it specific, the Committee decided to insert the words "alteration or change of direction" in this sub-clause at the proper place.

16. *Clause 8 of the present Bill and Clause 9 of the amended Bill.*—Under this clause, highway authority is required to maintain an authoritative plan for the highways in its charge, showing clearly the boundaries of the highway, detailed measurements of roads' width and the distances between the boundary marks. In the present clause, there is no provision for keeping this authoritative plans open for inspection to the public. The Committee feels that every plan maintained under this clause, should be kept open for inspection to the public at all reasonable times and copies there of should also be made available to the members of public on application and payment of reasonable fees. Necessary provision has, therefore been made by the Committee in this clause by adding new sub-clause (4).

17. *Clause 10 of the present Bill and clause 11 of the amended Bill.*—Under sub-clause (1) of this clause duty is cast upon the highway authority to conduct an annual check of the boundaries of the highways in its charge with a view to locate unauthorised encroachments, if any. The Committee is of the opinion that this is a very important function of the highway authority and some provision should be made in this sub-clause so as to compel the highway authority to conduct the check annually. The Committee therefore, decided to add the word “and to make a report of such check to the competent authority within thirty days after the completion of such check” in sub-clause (1) of this clause.

18. *Clause 14 (8) of the present Bill and Clause 15 (8) of the amended Bill.* It was brought to the notice of the Committee that the words “by all persons” are not properly used in this sub-clause. Looking to the context, it seems to the Committee that these words should be substituted by the words “to all persons”. The Committee has therefore, amended this sub-clause suitably.

19. *Clause 20 of the present Bill and Clause 19 of the amended Bill.*—Under this clause, the highway authority or the authorised officer is empowered to grant permission for temporary use of highway land subject to such conditions as may be imposed and such rules as may be made by the State Government. In this clause, there is no provision for cancelling the permission in the event of any breach by the holder of such permission of any terms and conditions of such permission. It was brought to the notice of the Committee that the provision to the effect that the permission is liable to be cancelled at any time could be made by Rules or by imposing condition while granting such permission. It was also brought to the notice of the Committee that the authority granting permission has a right to cancel it at any time. No doubt, power to grant permission includes the power to cancel the permission. However, with a view to remove doubt the Committee feels that express provision should be made in the bill itself empowering the highway authority to cancel the permission. New sub-clause (6) has, therefore, been added for the purpose.

20. *Clause 21 (6) of the present Bill and Clause 20(6) of the amended Bill.* Under this sub-clause the highway authority is empowered to remove the encroachment with the help of police where the encroachment is of such a nature that its immediate removal is considered essential in the interest of safety of traffic on the highway or the safety of any structure forming part of the highway and no notice can be served immediately on the person responsible for the encroachment. The Committee considers that no doubt, the power to remove the encroachment causing danger to the traffic is absolutely essential in the interest of safety of traffic, but this power should be restricted only for the encroachment which has taken place on the actual road. The Committee has, therefore, decided to use the word “road width” in place of “highway”. Necessary explanation for the term “road width” has also been added to the sub-clause.

21. *Clause 22 of the present Bill and Clause 21 of the amended Bill.* According to this clause, if the person on whom notice to remove an encroach-

ment has been served, lays claim that the land in respect of which encroachment has been alleged if his property or that he has acquired a right over it by virtue of adverse possession, he has to file a suit in a competent Civil Court for getting an injunction on the highway authority to desist from taking further action. The Committee considers that by virtue of this provision unnecessary litigation will be increased and the work of removal of encroachment will be delayed and consequently the very purpose of the bill will be defeated. The Committee, therefore, feels that instead of filing a suit in a Civil Court directly, provision should be made for making an appeal before a Collector. The Collector, being a revenue authority, has a revenue record in his charge and it will help him in early disposal of the appeal. The Committee has, therefore, amended this clause suitably for the purpose.

22. *Acquisition of land and compensation thereof.*—While considering the provisions of this Bill, the Committee also discussed at length the question of compensation in respect of lands acquired for the roads. The Representative of the Department who remained present in the sitting of the Committee, informed the Committee that while acquiring the land after preparing the scheme for the road, 75% of the cost of land as assessed in the scheme is paid at the time of taking possession of the land and the remaining amount is paid after the award is given by the Land Acquisition Officer. In this respect, the Committee felt that full compensation for the land acquired should be paid at the time of taking possession of the land because in most of the cases, the remaining 25% amount remains unpaid for years together, as a result of which the farmers who have given their lands for the road have to suffer financially. It was brought to the notice of the Committee that for want of necessary corrections in the land revenue records, the original holder of the land has to pay land revenue of the land which has been already acquired and roads have been constructed thereon. Such a state of affairs has caused great discontent in the public against the land acquisition proceedings. The Committee believes that there should be no discontent among farmers who give their land for the development of the State. Along with this issue, the question of making a provision for immediate acquisition of land for the road had also come up before the Committee. It is a well known fact that all round development of the state is not possible without roads. There are several instances of construction of roads being held up for want of possession of land. While taking into consideration this entire situation, the Committee feels that a provision for immediate acquisition of land for the road and for immediate payment of compensation for such land should be made in this Bill. In this respect, the provisions made in the Bombay Highways Act of the Maharashtra State was brought to the notice of the Committee. Some sections of the Land Acquisition Act, 1894 have been amended by the above Act of Maharashtra and norms of compensation have been prescribed therein. Looking to the provision of this Act of Maharashtra the Committee feels that the purpose of the Committee will be served if such type of provisions are made in this Bill. The Committee therefore, decided to make provision in the Bill on the lines of the Maharashtra's Act. New Chapter VII and VIII have, therefore, been inserted in the Bill.

23. *Clause 27 of the present Bill and Clause 44 of the amended Bill.*—Under sub-clause (2), a person upon whom a notice has been served under sub-clause (1) has to send his objection within 14 days. Under sub-clause (4), 7 days time limit have been fixed for filing an appeal against the order of the highway authority. The Committee considers that these are too short periods and they should be 30 days. Necessary amendments have, therefore, been made in sub-clauses (2) and (4) of this clause.

24. *Clause 31 of the present Bill and Clause 48 of the amended Bill.*—(1) This clause provides for the procedure to be followed when any highway or part thereof is to be closed down permanently. The highway authority has to publish notice in the Official Gazette of its intention to close down any highway or part thereof. This notice shall indicate the alternative route, if any, which is proposed to be provided or which may already be in existence and shall also invite objections, if any to the proposal within such time as may be specified in the notice. As the time limit has not been specified in the Bill, it will be fixed by the highway authority as its discretion. It was brought to the notice of the Committee that in these type of cases usually 30 days' time is given for filing objections. The Committee feels that instead of leaving it at the discretion of the highway authority, 30 days' time limit should be fixed in the Bill itself. Necessary amendments have, therefore, been made in sub-clauses (2) and (3).

(2) After the proposal to close down any highway is approved by the State Government, the Orders are required to be published in the *Official Gazette* under sub-clause (5) of this clause. There is no provision in the present Bill for laying these Orders before the State Legislature. The Committee has, therefore, amended this sub-clause suitably for making provision to lay these orders before the State Legislature.

25. *Clause 32 of the present Bill and Clause 49 of the amended Bill.*—Under this clause, specific prior consent of the highway authority is essential for constructing or carrying any cable, wire, pipe, drain, sewer or channel of any kind through, across, under or over any highway. As no time-limit has been fixed for disposal of an application for consent, persons like farmers who have applied for constructing canal or laying pipe-line across the road would be put to unnecessary loss. The Committee feels that this provision affects the common man and therefore, some provision should be made which will compel the highway authority to decide the application within a fixed time and if the application for consent is not decided within the time fixed, the specific consent should be deemed to have been given without any condition. The Committee is of the opinion that this type of provision would minimise the inconveniences to the common man. After discussions, the Committee decided to fix a period of 30 days in this regard. New sub-clause (2) has, therefore, inserted for the purpose.

26. *Clauses 33 and 46 of the present Bill and Clauses 50 and 63 of the amended Bill:*—Clause 33 provides for the prevention and rectification of damage to

highway. Clause 46 provides for penalty for causing damage to the highway. In both these clauses, person in charge of animal has been treated at par with the person in charge of other vehicle. The Committee feels that generally the persons in charge of animal drawn vehicles are from a poor class. The Committee also feels that these provisions should be restricted only for mechanically propelled vehicles. The Committee has, therefore, amended these clauses suitably for the purpose.

27. *Clause 47 of the present Bill and Clause 64 of the amended Bill.*—Under this clause, the highway authority has been empowered to compound an offence committed under this Act either before or after the institution of the proceedings. The Committee is of the opinion that compounding an offence is an important event and it has an effect on the implementation of the provisions of the Act. The highway authority is supposed to exercise this power judiciously and in the public interest. The Committee considers that there should be some machinery to review the decisions taken by the highway authority in this regard. In this report the Committee has recommended for the constitution of a State Advisory Committee. The Committee feels that this work can well be entrusted to the State Advisory Committee. Clause 47 has therefore, been substituted which makes provision for submitting full report with reasons for compounding an offence to the State Advisory Committee as well as to the State Government within one month from the date on which the offence was compounded.

28. *Clause 64(2) of the present Bill and Clause 81(2) of the amended Bill.*—According to this sub-clause, if a driver of a public vehicle is convicted for driving recklessly or dangerously for the third time, his driving licence is liable to be cancelled by the court convicting him for such offence. The Committee considers that by cancelling a driving licence man will be without job. As there is a provision for punishment in this clause, the provision for cancelling a licence should be removed from the Bill. Sub-clause (2) has, therefore, been deleted.

29. *Clauses 65 and 73 of the present Bill.*—These clauses empower a police officer in uniform to arrest without warrant any person who commits an offence under this Act. This provision was opposed in the House from all sides. To arrest without warrant is a very wide power and it is doubtful whether this power will be exercised judiciously by the police officer. The Committee considers that this provision is very harsh and should be removed from the bill. Clauses 65 and 73 of the present Bill have therefore, been deleted.

30. *Advisory Committees.*—While considering the object of the Bill, the Committee feels that many problems will arise in the implementation of provisions of this Bill, viz, acquisition of land and fixing of compensation thereof, giving priority to a particular highway, ribbon development along road side, removal of encroachment, etc. The competent authority and highway authority have been given very wide powers to meet with these problems. It appears to the Committee that for speedy and effective implementation of the provisions of the bill, the representatives of the people should be actively associated with the

administration. The Committee has, therefore, decided to make suitable provision for constituting Advisory Committees at state and district levels. New clauses 83, 84 and 85 have therefore, been inserted which make suitable provisions for the purpose.

31. *Summary eviction*:—While considering the various provisions of the Bill, the Committee noticed that there is no provision in the Bill for summary eviction of wrongfully occupied highway land. At this stage, provision made in the Bombay Highways Act, 1955 was brought to the notice of the Committee in which the highway authority is empowered in the same manner as the collector is empowered under the Land Revenue Code for evicting the wrongfully occupied land. The Committee decided to make the provision in the present Bill on the lines of Bombay Highways Act. New clauses 94 and 95 have, therefore, been inserted in the Bill.

32. The changes made in other clauses are either minor or of consequential or of drafting nature.

33. The Committee expresses its thanks to Shri M. D. Patel, Secretary and Shri P. J. Mehta, Chief Engineer, Buildings and Communication Department and Shri J. P. Vasavada, Joint Secretary, Legal Department and the Secretary, Officers and staff of the Legislature Secretariat for their assistance in its deliberations.

Gandhinagar.

Dated : 2nd December, 1982.

KHODIDAN ZULA,
Chairman,
Select Committee.

GUJARAT BILL NO. 51 OF 1982.

THE GUJARAT HIGHWAYS BILL, 1982.

[*As reported by the Select Committee*]

[Deletions made by the Committee are shown in square brackets and additions are side-lined or under lined.]

A BILL

to consolidate and amend the law providing for the construction, development and maintenance of highways, prevention and removal of encroachment thereon, for the prevention of ribbon development along highways and for certain other matters incidental thereto.

It is hereby enacted in the Thirty-third Year of the Republic of India as follows :—

**PART I
CHAPTER I
PRELIMINARY**

1. (1) This Act may be called the Gujarat Highways Act, 1982.
- (2) It shall extend to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Short
title,
extent
and
commencement.

Hb-1311-2

2. In this Act, unless the context otherwise requires,—

[(1) “animal” means any cattle, elephant, camel, horse, ass, mule, sheep, goat, or any other captive or domestic animal.]

(1) “animal” means any elephant, camel, horse, ass, mule, sheep, goat or any cattle including a cow, bull, bullock or buffalo, or any other captive or domestic animal;

(2) “building” includes any erection of whatsoever material and in whatsoever manner constructed (including a farm building for agricultural purposes) and also includes plinths, doorsteps, walls (including compound walls and fences) and the like;

(3) “building line” means a line on either side of any highway or part of a highway as determined by the highway authority under section [12] 13;

(4) “cantonment” means a cantonment established under the Cantonments Act, 1924;

II of
1924.

(5) “competent authority” means the State Government or a local authority or any officer of the State Government or local authority, competent to sanction the construction of, or repair to, a highway;

(6) “control line” means a line on either side of a highway or part of a highway beyond the building line, as determined by the highway authority under section [12] 13;

(7) “driver” means, in the case of a vehicle, the person in charge or control of the vehicle for the time being and in the case of an animal, any person driving, leading, riding, or otherwise managing or controlling the animal and the words drive, driving and driven shall be construed accordingly;

(8) “encroachment” means any unauthorised occupation of any highway or part thereof, and includes and unauthorised—

(a) erection of a building or any other structure, balconies, porches, chhajjas or projections on, over or overhanging the highway land,

(b) occupation of highway land beyond the prescribed period, if any, for stacking building materials or goods of any other description for, exhibiting articles for sale, for erecting poles, awnings, tents, pandals and other similar erections or for parking vehicles or stabling domestic animals or for any other purposes,

(c) excavations or embankments of any sort made or extended on any highway land, and

[(d) cultivation of land comprised in highway or a portion thereof;]

(d) agricultural or non-agricultural use of land comprised in a highway or a portion thereof.

(9) “to erect” with its grammatical variations, in relation to a building, means to construct, reconstruct, extend or alter structurally a building;

(10) “excavation” in relation to any piece of land does not include any workings which do not pierce the surface of that piece of land, but includes wells and tanks ;

(11) "highway" means any public thoroughfare, whether a road, street, lane, bridlepath or a foot-track, whether surfaced or unsurfaced, whether on land owned by Government or a local authority or on land belonging to a private person over which the public have, or have acquired, a right of way by usage, [and includes,—] and declared to be a highway under section 5 and includes,—

(a) the slops, berm, borrow-pits, foot-paths, pavements and side drains of any such thoroughfare;

(b) all bridges, culverts, causeways, carriageways or other road structures built, on or across such thoroughfare;

(c) the trees, fences, posts, stones and other highway accessories and materials and material stacks on the thoroughfare or on land attached to the thoroughfare;

(d) any land acquired or demarcated with a view to constructing a highway on it;

(12) "highway authority" means,—

(a) for highways maintained by the State Government, the Department of the Government responsible for their maintenance, or any other authority specially appointed by the State Government in this behalf;

(b) for highways maintained by a local authority, the local authority or such other authority as may be appointed by the State Government in this behalf; and

(c) for highways not included in clauses (a) and (b), the authority appointed as the highway authority under section 3 or, if no such appointment has been made, the State Government itself;

(13) "highway boundaries" means the boundaries of the highways whether visibly demarcated or not, within which is contained the areas of land constituting the highway or land reserved or acquired for widening the highway ;

(14) "highway scheme" means a scheme for the construction of a new highway or the improvement of or repairs to an existing highway;

(15) "limited access highway" means a highway, access to which is permitted only at points specifically provided or agreed to for the purpose by the highway authority;

(16) "means of access" includes any means of access whether private or public, for vehicles, animals [or foot passengers;] or pedestrians;

[(17) "local authority" includes an area development authority and an urban development authority constituted respectively under sections 5 and 22 of the Gujarat Town Planning and Urban Development Act, 1976;]

(17) "local authority" includes,—

(a) the Gujarat Housing Board established under the Gujarat Housing Board Act, 1961;

(b) the Gujarat Industrial Development Corporation established under the Gujarat Industrial Development Act, 1962;

(c) the Gujarat Rural Housing Board constituted under the Gujarat Rural Housing Board Act, 1972;

Presi-
dent's
Act
No.
27 of
1976.]

Guj.
28 of
1961.
Guj.
23 of
1962.
Guj.
22 of
1972.]

(d) the Gujarat Slum Clearance Board established under the Gujarat Slum Areas (Improvement, Clearance and Re-development) Act, 1973;

Guj.
11 of
1973.

(e) (i) an area development authority and
(ii) an Urban Development authority
constituted under the Gujarat Town Planning and Urban Development Act, 1976, and

Presi-
dent's
Act
No.
27 of
1976.

(f) such other authority as the State Government may, by notification in the *Official Gazette*, specify.

(18) "middle of a highway" means in relation to any highway for the improvement of which plans have been prepared by the highway authority, the middle of the highway as proposed to be improved in accordance with the plans, and where no such plans have been prepared, the point half-way between the boundaries of the highway;

(19) "motor vehicle" means a motor vehicle as defined in the Motor Vehicles Act, 1939;

IV of
1939:

(20) "occupier" includes,—

(a) any person who for the time being is paying or is liable to pay to the owner rent or any portion of the rent of a building in respect of which such rent is paid or is payable;

(b) an owner living in or otherwise using his building;

(c) a rent-free-tenant;

(d) a licensee in occupation of any building; and

(e) any person who is liable to pay to the owner damages for the use and occupation of any building ;

(21) "owner" means—

(a) when used with reference to any building, the person who receives the rent of the said building or who would be entitled to receive the rent thereof if the building were let and includes,—

(i) an agent or trustee who receives such rent on account of the owner;

(ii) an agent or trustee who receives the rent of, or is entrusted with, or concerned for, any building devoted to religious or charitable purposes;

(iii) a receiver, sequestrator or manager appointed by any court of competent jurisdiction; and

(iv) a mortgagee-in-possession;

(b) when used with reference to an institution or a body corporate, the manager of such institution or body corporate;

(22) "prescribed" means prescribed in this Act or under rules made under this Act;

(23) "public place" means a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a public vehicle;

(24) "public vehicle" means any vehicle used or constructed or adapted to be used for the [carriage of passengers or goods for hire or reward;] carriage of passengers or goods or both, for hire or reward;

**LX of
1890.**

(25) "railway administration" has the same meaning as in the Railways Act, 1890;

(26) "standard width of highway" means the width of a highway between its boundaries as prescribed by the highway authority under section [11]; 12.

(27) "survey" includes all operations incidental to the determination, measurement and record of a boundary or boundaries or any part of a boundary and includes a resurvey;

(28) "survey mark" means any mark or object erected, made, employed or specified by a survey officer to indicate or determine or assist in determining the position or level of any point or points;

(29) "survey officer" means any person appointed to be a survey officer under this Act ;

(30) "vehicle" includes any wheeled conveyance drawn, propelled or driven by any kind of power including human, animals, motor, steam or electric power, and includes any barrow, sledge, plough, drag or like vehicle.

PART II

DECLARATION OF HIGHWAYS, HIGHWAY AUTHORITIES AND THEIR POWERS AND FUNCTIONS

CHAPTER II

HIGHWAY AUTHORITIES

3. (1) The State Government may, by notification in the Official Gazette appoint any person either by name or by virtue of his office or any authority including a local authority to be a highway authority for all highways in the State or for all the highways in such part of the State or for such particular highway or highways in the State [and subject to such conditions and limitations as may be specified in the notification] and subject to such of the conditions and limitations prescribed in rules, as may be specified in the notification.

Appoint-
ment of
highway
authority.

(2) A highway authority so appointed shall exercise and discharge through out its jurisdiction powers and functions conferred on or entrusted to it by or under this Act subject only to [such limitations as may have been imposed by the notification] such limitations as may have been specified in the notification issued under sub-section (1).

Transfer of control from one highway authority to another.

4. (1) The State Government may, at any time by notification in the Official Gazette, transfer control of any highway from itself or any of its departments functioning as the highway authority to another highway authority, or from one highway authority to another, in regard to such matters dealt with by this Act and on such conditions as may be specified in the notification.

(2) When the control of any highway has been transferred in the manner prescribed under sub-section (1), the highway authority to which its control is transferred shall, as from the date of the notification issued under that sub-section, exercise in respect of the highway or highways of which control has been transferred all the powers and functions of the authority from which its control is so transferred, subject to the conditions, if any, specified in that notification.

CHAPTER III

DEVELOPMENT AND MAINTENANCE OF HIGHWAYS

Declaration of thoroughfares as highways.

5. (1) The State Government may, by notification in the *Official Gazette*, declare any thoroughfare to be a highway and classify it as—

- (a) a State highway (Special);
- (b) a State highway;
- (c) a major district road;
- (d) other district road; or
- (e) a village road.

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for the State Government to classify any thoroughfare in any manner other than that specified in sub-section (1).

Power to enter upon lands for reconnaissance and preliminary survey in connection with highway schemes.

[5. (1)] 6. The highway authority, or any officer not below the prescribed rank authorised by the highway authority in this behalf, may undertake a reconnaissance survey in connection with the preparation of a highway scheme and may for that purpose—

- (a) enter upon any land along with his workmen and survey and take measurements and levels on it,
- (b) mark such levels, dig or bore into the sub-soil and do all other acts necessary to ascertain whether the land is suitable,

(c) set out the boundaries of the proposed highway by placing marks and cutting trenches, and

(d) where otherwise survey cannot be completed and the levels taken and the boundaries marked, cut down and clear any part of a standing crop, fence or jungle:

Provided that no officer or servant of highway authority shall enter into any building or any enclosed court or garden attached to a dwelling house (except with the consent of the occupier thereof) without previously giving such occupier a notice of at least fortyeight hours in writing of his intention to do so.

[(2) The highway authority or the authority official shall, at the time of such entry, pay or tender payment for all necessary damage to be done as aforesaid, and in case of dispute as to the sufficiency of the amount so paid or tendered, shall at once refer the dispute to the decision of the Collector whose decision in the matter shall be final.]

[6] 7 (1) The highway authority may, of its own accord, or if expressly requested by the competent authority shall, subject to the other provisions of this Act and subject to such rules as may be made by the State Government for this purpose, prepare and submit to the competent authority for sanction, a detailed scheme for the construction of a new highway [or the improvement or repairs to an existing one.] or improvement of or repairs to or alteration or change of direction of an existing one.

Preparation
of schemes
for highway
development.

(2) Such a scheme may provide for,—

(a) the acquisition of any land which in the opinion of the highway authority is considered necessary for its execution.

(b) the laying out or relaying out of all or any of the lands so acquired.

(c) the diversion or closure of any existing highway or a section of such highway.

(d) the construction or reconstruction of the roadway including its widening, levelling, surfacing, bridging, sewerage, drainage, water supply and street lighting arrangements and planting of roadside trees;

(e) the laying of foot-paths, cycle tracks and special traffic lanes for any kind or class of vehicles, the designing and setting of parking bays, and petrol filling and service stations the location of advertisement posts and bill boards, and

(f) the layout of access roads at suitable distances connecting the highway or the proposed highway with the adjoining properties.

[7] 8. When the competent authority has sanctioned the highway scheme prepared in pursuance of section [6] 7 and provided the necessary finances for its execution the highway authority shall proceed to carry out the work and may, for that purpose,—

Power to
do certain
act for
execution of
highway
schemes.

(1) enter into and perform all such contracts on behalf of the competent authority as may be considered necessary,

(2) make arrangements for the acquisition of the lands required under the scheme by outright gift or purchase by agreement with the owner or owners, or, failing such arrangement, by resort to the procedure [set out in the Land Acquisition Act, 1894,] prescribed in this Act.

(3) turn, divert or close either temporarily or permanently any existing highway or portion thereof, and

(4) regulate, subject to such rules as may be made in this behalf, the kind, number and speed of vehicles using any highway or portion thereof by means of barrier, diversion roads or other means.

Maintenance
of high-
way
plans.

[8] 9. (1) A highway authority shall maintain authoritative plans for the highways in its charge.

(2) Such plans shall show clearly the boundaries of the highway, the detailed measurements of road widths, the distance between boundary marks and sufficient measurements from fixed point to enable the refixation in position of boundary marks in case they have been displaced or tampered with.

(3) The highway authority shall have all such authoritative plans prepared after having a survey made of the highway lands and their boundaries in the manner specified in Chapter [VIII]X and in accordance with the record of that survey as notified under section [40] 57 and modified, as may be, under section [41] 58.

(4) Every plan maintained under sub-section (1) shall be open for inspection by the public at all reasonable times and the copies thereof shall be made available to any member of the public on application and payment of such fees as may be prescribed.

Demarca-
tion of
road
boundaries.

[9] 10 (1) The highway authority shall have the boundaries of the highways, in its charge demarcated with reference to the authoritative plans maintained, by it, by planting stones or other suitable marks of a durable nature at intervals all along the highway in such a manner that the imaginary line joining such stones or marks shows the road boundary correctly.

(2) Where there are bends or kinks in the road boundary, the stones or marks shall be so located as to give the correct configuration of the boundary if they are joined by straight lines.

(3) The boundary stones or marks, which may be given consecutive numbers, shall be maintained on the ground as if they constitute part of the highway.

(4) Where standard widths have been prescribed for any highway under section [11] 12 the distance between the highway boundaries so demarcated shall correspond to that width.

Annual
check of
road
boundaries.

[10] 11 (1) It shall be the duty of the highway authority to conduct an annual check of the boundaries of the highways in its charge with a view to locating unauthorised encroachments, if any, and to make a report of such check to the competent authority within thirty days after the comple-
tion of such check.

(2) When the highway authority is satisfied that an unauthorised encroachment has been made on highway land, it shall take immediate steps as specified in section [21] 20 for the removal thereof.

CHAPTER IV

PREVENTION OF RIBBON DEVELOPMENT ALONG AND CONTROL OF ACCESS TO HIGHWAYS

[11] 12. (1) The highway authority may, with the previous approval of the State Government, prescribe a standard width for any highway in its charge.

Standard widths of highways.

(2) The standard width may be different in different portions of the same highway according to local needs.

(3) When a highway authority proposes to prescribe a standard width in respect of any highway or a portion thereof, it shall notify the proposal in the Official Gazette and invite objections, if any, to be submitted to it within sixty days of the date of publication of the notification;

(4) The notification shall also be published in at least two newspapers, one at least of which shall be in the Gujarati language, circulating in the locality where the highway is situated, and, in addition, copies of the notification shall be prominently displayed in a number of places in the locality.

(5) All objections received within the prescribed period shall be taken into account by the highway authority before finalising its proposal for submission to the State Government.

(6) The State Government may reject or sanction the proposal with or without modifications, and shall publish its order in the OFFICIAL GAZETTE.

(7) When the State Government's order sanctioning the proposal with or without modification has been issued, the highway authority shall cause further publicity to be given to the standard width, as finally approved, in the same manner as prescribed in sub-section (4), and the records so published shall there-upon be conclusive proof that the standard width so determined and recorded therein has been correctly determined and recorded.

(8) In determining the standard width, the highway authority and the State Government shall take into account the requirements of public health and welfare and of safety and convenience for all classes of traffic, including pedestrians and cyclists likely, to use the highway.

(9) The standard width so determined may at any time be altered but the procedure for such alteration shall be the same as prescribed for the determination of the original standard width.

(10) The highway authority shall as early as economically practicable after the prescription of the standard width, acquire either by direct negotiation or, failing such negotiation, by compulsory acquisition [under the Land Acquisition Act, 1894] under this Act, all land lying within the standard width not already forming part of the highway land.

[1 of
1894.]

Prescription
of building
and control
lines.

[12] 13. (1) The highway authority may, with the previous approval of the State Government, determine, a building line and a control line in respect of any highway or part of a highway in its charge along one or both sides of the highway.

(2) The distance between the middle of a highway and the building line or that between the building line and the control line, which shall be fixed with due regard to the requirements of safety and convenience for traffic and of public health and welfare, may vary in different portions of the highway according to local conditions.

(3) When a highway authority proposes to determine a building and a control line in respect of a highway the same procedure shall as far as applicable be followed as prescribed under sub-sections (3) to (7) of section [11] 12 for the prescription of standard width.

(4) The building and control lines as finally determined shall be demarcated on the ground by distinctive stones or other suitable marks which may be painted with different colours and serially numbered.

Restriction
on building
etc. in the
area bet-
ween the
highway and
the building
line.

[13] 14. (1) Notwithstanding anything contained in any other law for the time being in force, it shall be unlawful for any person, except with the permission of the highway authority or any person working on behalf of the highway authority,—

(a) to construct, form or layout any means of access to or from a highway,

(b) to erect or re-erect any building or materially alter the outside dimension of any existing building,

(c) to make any excavation, or

(d) to construct, form or lay out any works, upon land lying nearer to the middle of a highway than a distance equal to one-half of its standard width prescribed under section [11] 12 or upon land lying in between the boundary of a highway and the building line determined in respect of the highway under section [12] 13:

Provided, however that these restrictions shall not apply to any works, necessary for the repair, renewal, enlargement or maintenance of any sewer, drain, electric line, pipe, duct or other apparatus, constructed in or upon the land before the date on which the restrictions came into force or, with the consent of the highway authority, on or after that date.

(2) If any building (including a wall) or any part thereof lie within the area between the building line and the middle of a highway, the highway authority may whenever such building or part has been either entirely or in greater part taken down or burnt down or has fallen down, by notice require such building or part when rebuilt to be set back to the building line.

Restrictions
on buildings
etc. between
the building
and the
control
lines.

[14] 15. (1) Notwithstanding anything contained in any law for the time being in force, no person shall erect or re-erect any building or structure or make or extend any excavation or construct, form or lay out any means of access to a highway upon land lying in between the building and control lines determined in respect of the highway, except with the previous permission of the highway authority in writing.

(2) Every person desiring to obtain the permission referred to in sub-section (1) shall make an application in writing to the highway authority in such form and containing such information in respect of the building, excavation or means of access to which the application relates, and together with such fees as may be prescribed.

(3) On receipt of such application, the highway authority after making such enquiries as it may consider necessary, shall by order in writing either,

(a) grant the permission, subject, to such reasonable conditions, if any, as may be specified in the order, or

(b) refuse to grant such permission.

(4) The highway authority shall not ordinarily refuse permission to,—

(a) the erection of a building or structure or the making of or extending an excavation which conforms to the requirements of public health and welfare and of safety and convenience of traffic on the adjoining highway; or

(b) the re-erection of a building or structure which was in existence on the date on which the restrictions under sub-section (1) came into force, unless such re-erection involved any material alteration to the outside appearance of the building or structure.

(5) When the highway authority refuses the permission, the reasons therefor shall be recorded and communicated to the applicant.

(6) In the event of refusal, the applicant may submit fresh application for permission to the highway authority, avoiding the objectionable features on account of which the first application was refused and such fresh application shall be considered by the highway authority as if it were made for the first time.

(7) If at the expiration of a period of three months after an application has under sub-section (1) or sub-section (6) been made to the highway authority, no order in writing has been passed by that authority permission shall be deemed to have been given without the imposition of any conditions.

(8) The highway authority shall maintain a register with sufficient particulars of all permissions given or refused by it under this section [and the register shall be available for inspection free of charge by all persons interested] and the register shall be available for inspection to all persons interested free of charge and such persons shall be entitled to take extracts therefrom.

(9) Any person aggrieved by an order under sub-section (2) granting permission subject to conditions or refusing permissions, may within thirty days from the date of such order prefer an appeal to the State Government whose order in the matter shall be final.

**Declaration
of limited
access
highway.**

[15] 16. (1) The highway authority may with, the written approval of the State Government, declare a highway or any portion of it to be a limited access highway.

(2) When a highway authority proposes to make any such declaration, the same procedure shall, as far as applicable, be followed as prescribed under sub-section (3) to (7) of section [11] 12 for the prescription of standard widths.

(3) It shall be unlawful for any person to lay out a new means of access to a limited access highway for vehicles or pedestrians, except with the specific permission of the highway authority,

(4) The procedure for obtaining the permission of the highway authority for this purpose shall be the same as prescribed in section [14] 15 and in the event of refusal of permission the applicant shall have the right of making a fresh application to that authority and the right of appeal to the State Government in the same manner as provided for in that section.

(5) When any highway or part of it has been declared to be a limited access highway, the highway authority shall, within six months of the final publication of the declaration or such longer time as may be specially allowed by the State Government in any individual case, prepare a plan of such highway or part showing the points on which access shall, if applied for in accordance with sub-section (4), be permitted.

(6) A plan so prepared shall be available for inspection by the public in the office of the highway authority free of charge at all reasonable times, and copies of it shall be made available to any member of the public on application to the highway authority and on payment of such reasonable cost as may be prescribed.

**Regulation
or diversion
of existing
rights of
access.**

[16] 17. (1) The highway authority may, if it is considered essential in the interests of safety or convenience of traffic, regulate or divert any existing right of access to a highway across land lying between the control line and the highway boundary.

(2) Where an existing right of access is diverted, the point at which alternative access is given to the highway shall not be unreasonably distant from the existing point of access.

(3) In the case of existing village tracks and lanes giving access to a highway at right angles, the alternative access that may be provided shall as far as possible have a diagonal approach to the highway.

Compensation]

[17. (1) Notwithstanding anything contained in any law for the time being in force, no person shall be entitled to claim any compensation for any injury, damage or loss caused or alleged to have been caused as a result of,—

(a) the restriction imposed against the erection or re-erection of a building or the making or extending of any excavation or the laying out of any means of access on or across land lying in between the control line and the middle of a highway under sub-section (1) of section 13 or sub-section (1) of section 14.

(b) the regulation or diversion under section 16 of the existing rights of access across lands lying within the control line and the highway boundary, and

(c) the refusal of permission to the laying out of new means of access to a limited access highway under sub-section (3) of section 15:

Provided that compensation shall be payable by the highway authority;

(i) Where in compliance with the notice served by the highway authority under sub-section (2) of section 13 a building or part thereof has been set back to the building line of any highway, and

(ii) where permission to erect or reerect a building in the area lying in between the control line and building line of a highway has been finally refused under section 14.

(2) Where compensation is payable under the proviso to sub-section (1), the claimant may, within three months of the date of notice issued by the highway authority under sub-section (2) of section 13 or within three months of the date of final refusal of permission under section 14, as the case may be, make to the State Government his claim for compensation.

(3) On receipt of the claim under sub-section (2) the State Government shall transfer it for disposal to an officer exercising the powers of a Collector under the Land Acquisition Act, 1894.

(4) Nothing in this section shall be deemed to preclude the settlement of a claim by mutual agreement.]

[18. (1) When a claim is transferred for disposal under sub-section (3) of section 17 to an officer exercising the powers of a Collector under the land Acquisition Act, 1894, such officer shall make an award determining the amount of compensation payable to the claimant.

[Amount of compensation how determined.]

(2) The amount of compensation awarded under sub-section (1) shall in no case exceed the difference between the market value of the land when permission is refused and the market value which it would have had if permission had been granted.

(3) No compensation shall be awarded under sub-section (1),—

(i) unless the claimant satisfies the officer making the award that proposals for the development of the land, which at the date of application under sub-section (2) of section 14 were immediately practicable, or would have been practicable, on that date if this Act had not been passed, were prevented or injuriously affected by the restrictions imposed under this Act and that there was demand for such development, or

(ii) if and in so far as the land is subject to substantially similar restrictions in force under some other enactment which were so in force at the date when the restrictions were imposed under this Act, or

(iii) if compensation in respect of the same restrictions in force under this Act or of substantially similar restrictions in force under any other enactment has already been paid in respect of the land to the claimant or to any predecessor in interest of the claimant.

(4) The provisions of Parts III, IV and V of the Land Acquisitions Act, 1894 shall so far as may be, apply to an award made under sub-section (1) as though it were an award made under that Act.]

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1894.

CHAPTER V

PREVENTION OF UNAUTHORISED OCCUPATION OF HIGHWAY LAND AND REMOVAL OF ENCROACHMENTS

Highway
lands to be
deemed
Government
property.

[19] 18. All lands forming part of a highway which do not already vest in the State Government shall, for the purposes of this Chapter, be deemed to be Government property.

Prevention
of unautho-
rised occu-
pation of
highway
land.

[20] 19. (1) No person shall occupy or encroach on any highway land without obtaining the previous permission in writing of the highway authority or any officer authorised by the highway authority in this behalf.

(2) The highway authority or the authorised officer may, with due regard to the safety and convenience of traffic and subject to such conditions as may be imposed and such rules as may be made by the State Government and on payment of such rent or other charges as may be prescribed under such rules, permit any person,—

(i) to place a movable encroachment on any highway in front of any building owned by him or make a movable structure over-hanging the highway.

(ii) to put up a temporary awning or tent, pandal or other similar erection or a temporary stall or scaffolding on any highway, or

(iii) to deposit or cause to be deposited building materials, goods for sale or other articles on any highway, or

(iv) to make a temporary excavation for carrying out any repairs or improvements to adjoining buildings:

Provided that no such permission shall be deemed to be valid beyond a period of one year unless expressly renewed by the highway authority or the authorised officer.

(3) The permission so granted shall clearly specify the date up to which the person is authorised to occupy the highway land, the purposes for which occupation is authorised and the exact portion of the highway permitted to be occupied and shall also be accompanied by a plan or sketch of that portion of the highway, if necessary.

(4) The person in whose favour such a permission has been given shall produce the permit for inspection whenever called upon to do so by any highway official and shall at the end of the period prescribed in the permit release the land occupied by him after restoring it to the same state as before the occupation by him.

(5) The highway authority or the officer issuing the permission shall maintain complete record of all such permissions issued, and shall also cause a checkup to be made in every case at the expiration of the period upto which occupation has been authorised to ensure that the land has actually been vacated.

(6) (a) The highway authority may cancel any permission granted under this section —

(i) if any rent of charge is not duly paid,

(ii) if the purpose for which the permission was given has ceased to exist,

(iii) in the event of any breach by the holder of such permission of any condition or rule subject to which such permission is granted,

(iv) if the land in which such encroachment has been made is required for any public purpose or such encroachment is causing impediment or danger to traffic.

(b) Where the permission has been cancelled under sub-clause (ii) or (iv) of clause (a) any rent or charge paid in advance shall be refunded to the holder of such permission after deducting there from the amount if any due to the State Government.

[21] 20. (1) When, as a result of the annual check of highway boundaries made under section [10] 11, or otherwise, it transpires that an encroachment has taken place on highway land, the highway authority or any officer authorised in this behalf shall serve a notice on the person responsible for the encroachment or his representative requiring him to remove such encroachment and restore the land to its original condition before encroachment within the period specified in the notice.

Removal
of encroa-
chments.

(2) The notice shall specify the land encroached upon and the time-limit within which such encroachment shall be removed and shall also state that failure to comply within the specified period shall render the person liable to prosecution and also to summary eviction.

(3) If the encroachment is not removed by the person or his representative within the time-limit specified in the notice and no valid cause is shown by him for noncompliance, the highway authority or the authorised official may prosecute him before the appropriate magistrate for this having made or caused the encroachment and for his failure to remove it within the specified period.

(4) Where the encroachment is petty or of trivial nature such as exposing articles for sale, opening temporary booths for vending, etc. the highway authority or the authorised official may with the help of the police, if necessary, have it summarily removed without the formality of issuing a notice as required under sub-section (1) or in lieu of removal of the encroachment may give to the person responsible for encroachment the area encroached upon, on lease for payment of rent.

(5) Where the encroachment is of a temporary nature and can easily be removed but is not such as can be described as petty or trivial within the meaning indicated in sub-section (4), the highway authority or the authorised official may in addition to or in lieu of prosecuting the person responsible for the encroachment under sub-section (3) have the encroachment summarily removed with the assistance of the police, if necessary.

(6) Where the encroachment is of such a nature that its immediate removal is considered essential in the interest of safety of traffic on the [highway] road width or the safety of any structure forming part of the [highway] road width and no notice can be served immediately on the person responsible for the encroachment or his representative under sub-section (1) owing to his absence or for any other reason, the highway authority or the authorised official may, in addition to prosecution of the person under sub-section (3) either—

(i) have such protective work as may be feasible at a reasonable cost carried out so as to minimise the danger to traffic on the [highway] road width, or

(ii) have the encroachment removed with help of the police if necessary.

Explanation :- For the purposes of this sub-section the word "road width" means the carriage way with side shoulders.

(7) Where the encroachment is of a permanent nature and has been in existence for some time but not long enough to create a prescriptive right by adverse possession, and the person responsible for the encroachment, or his representative has not arranged for its removal even after he has been prosecuted under sub-section (3) and convicted, a fresh notice for its removal shall be served on him by the highway authority or the officer authorised under sub-section (1), and in the event of his failure to comply, with that notice also, the highway authority or the authorised official shall institute a second prosecution against him and simultaneously apply to the magistrate having local jurisdiction to order the removal of the encroachment, and the magistrate shall thereupon have the encroachment removed.

(22) 21. (1) Where the person on whom notice to remove an encroachment has been served under sub-section (1) of section [21] 20 lays claim that the land in respect of which encroachment has been alleged is his property or that he has acquired a prescriptive right over it by virtue of adverse possession, he may within the time limit prescribed in the notice for the removal of the encroachment [file a suit in a competent civil court and also get an

Injunction on the highway authority to desist from removal of encroachment.

injunction on the highway authority to desist from taking further action in the matter till the suit has been disposed of] file an appeal before the Collector under intimation to the highway authority or as the case may be, the officer authorised under the sub-section (1) of section [21] 20. The Collector may pending inquiry and decision in the matter grant injunction against, further action by the highway authority or the authorised officer in the matter, and shall after due inquiry record his decision in writing and communicate the same to the appellant and the highway authority or such officer.

(2) [When such an injunction has been issued, the highway authority or the authorised officer shall suspend further action until the suit filed by the person has been disposed of] Where the Collector has granted an injunction the highway authority or the authorised officer shall suspend further action until the receipt of the communication of the decision of the Collector in such appeal.

(23) 22. (1) Whenever a highway authority or the officer authorised under sub-section (1) of section [21] 20 has under the provisions of that section removed any encroachment or carried out any protective work in respect of any encroachment the actual expenditure involved, together with 15 per cent for overhead charges shall be recovered from the person responsible for the encroachment in the manner herein after provided.

Recovery
of cost of
removal of
encroach-
ment.

(2) A bill representing the actual expenditure and the overhead charges, shall be served by the highway authority or the authorised officer referred to on the person responsible for the encroachment or his representative with a direction to pay up the total amount before a specified date to the authority mentioned in the bill.

(3) The bill shall be accompanied by a certificate from the highway authority or the authorised officer to the effect that the amount of expenditure indicated in the bill represents the charges incurred and such a certificate shall be conclusive proof that the charges had actually been incurred and shall not be questioned in any civil court.

(4) The materials, if any recovered as a result of the removal of any encroachment shall be handed over to the person responsible for the encroachment on payment of the bill by him but in the event of his failure to pay up the bill before the specified date, the materials may be auctioned and after deducting the amount of the bill from the proceeds, the balance, if any shall be made over to him.

(5) If the proceeds of the auction sale do not cover the total billed amount, the excess over the amount realised by the sale of materials or if there are no materials to dispose of and the billed amount has not been paid by the person responsible for encroachment within the prescribed date, the entire amount of the bill shall be recovered as arrears of land revenue.

CHAPTER VI

IMPROVEMENT AND MAINTENANCE OF VILLAGE ROADS

State Government to direct highway authority to take over village tracks for development and maintenance.

[24] 23. (1) The State Government may, whenever it deems fit to be necessary in the public interest, by notification in the *Official Gazette* direct a highway authority to take over for construction or maintenance of road any land constituting a village road or track on which the public have or have established by long usage, a permanent right of way, irrespective of whether such village road or track has been shown in the Settlement Records as a public way or not, and whether the ownership of such land vests in the Government or any other person.

(2) Such notification shall be given proper publicity in the locality of the village road or track.

(3) All such lands taken over by the highway authority as a result of the notification issued under sub-section (1) as are not already deemed to be Government property, shall be so deemed to be Government property for purposes of Chapter V, and the provisions of that Chapter shall apply fully to such lands.

Highway authority to require village road land to be repaired properly.

[25] 24. (1) Where there is any obligation by law or by custom or otherwise, on any person to maintain a village road or track on which the public have or have acquired a permanent right of way, and such road or track is not in the opinion of any highway authority properly maintained, that authority may issue a notice to such person to repair the road or track within such reasonable time and in such manner as may be specified in the notice.

(2) If at the end of the specified period the repairs have not been carried out in the manner specified and the person concerned has not furnished any satisfactory explanation for non-compliance, the highway authority may move the State Government to transfer control of the road or track to it or to any other highway authority under sub-section (1) of section [24] 23.

(3) The State Government, while directing the transfer of control of such village road or track to any highway authority may determine whether any, and, if so what, portion of the cost of repair which the highway authority may incur shall be recovered from such person in discharge of his obligation to maintain the road or track.

Highway Authority to acquire reversionary right in village road land.

[26] 25. (1) Where the control of a village road or track has been taken over by a highway authority as a result of a notification issued under sub-section (1) of section [24] 23 and the ownership of the land constituting the road or track vests in any person the highway authority shall acquire by direct negotiation or, failing negotiation, by resort to the Land Acquisition Act, 1894 the reversionary rights, if any, of such person to the land by paying suitable compensation.

I of 1894.

(2) In determining the compensation payable under sub-section (1) regard shall be had to the fact that the reversionary right is very remote.

(3) The amount, if any, payable by any person under sub-section (3) of section [25] 24 may be set off against the compensation payable to him under sub-section (1).

CHAPTER VII

ACQUISITION OF LAND OR EXTINGUISHMENT OF ANY RIGHT
OR INTEREST IN ANY LAND

26. (1) If at any time on an application of the highway authority the State Government is satisfied that any land required for the purposes of a highway or that any right or interest of any person in any land required for the said purposes should be compulsorily acquired or, as the case may be, extinguished, it shall be lawful for the State Government to publish a notification to that effect in the *Official Gazette* and in such other manner as may be prescribed.

Acquisition
of land or
right or
interest
in land.

(2) A notification published under sub-section (1) shall be deemed to be a declaration that the land specified therein is needed or as a case may be, right or interest in land specified therein is required to be extinguished for the purpose of the highway.

(3) The declaration referred to in sub-section (2) shall be conclusive evidence that the land is needed or right or interest is required to be extinguished for the purpose of the highway.

27. Thereupon, the highway authority or any officer or servant authorised by the highway authority shall enter upon the land and shall cause the land to be marked out and measured and if no plan is made thereof shall cause a plan to be made of the same.

Land
required to
be marked
and
measured.

28. (1) The highway authority shall then cause a public notice to be given at convenient places on or near such land stating that the State Government intends to take possession of the land or as the case may be, to extinguish any right or interest in the land and that claims to compensation for all interest in such land or for extinguishment of any right or interest in land may be made to such officer as the highway authority may designate.

Public
notice and
other
notices of
such
require-
ment for
Acquisition.

(2) (a) Such notice shall state particulars of the land so needed or right or interest in land to be extinguished and shall require all persons interested in the land or in the right or the interest to be extinguished to appear personally or by agent before such officer as may be designated, at the time therein mentioned (such time not being earlier than fifteen days after the date of the publication of the notice) and so state the nature of their respective right or interest in the land or, as the case may be, in the right or interest to be extinguished and the amount and the particulars of their claims to compensation for such right or interest or both and their objections, if any, to the measurements made under section 27.

(b) The highway authority may require the statement under clause (a) to be made in writing and signed by the person or his agent making such statement.

(3) The highway authority shall also serve a notice to the same effect on the occupier of such land and on all such persons known or believed to be interested therein or to be entitled to act for persons so interested, as reside or have agents, authorised to receive service on their behalf, within the district in which the land is situate.

(4) Where any person so interested resides elsewhere, a notice shall be served on him in the manner provided in section 87.

Persons
required to
make
Statements
regarding
other
persons
having
interest.

29. (1) The highway authority or the officer authorised by it may also require any such person to make or deliver to it or to him at a time not, being earlier than fifteen days after the date of the requisition a statement containing, as far as may be practicable, the name of every other person possessing any interest in the land or in any part thereof or, as the case may be, in any right or interest in land to be extinguished as co-proprietor sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, or of the rents and profits, if any, received or receivable on account thereof in respect of the three years immediately preceding the date of such statement.

(2) Every person required to make or deliver a statement under this section or under section 28 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

45
of
1860.

Taking
possession
of land.

30. (1) At any time after the publication of notification under sub-section (1) of section 26 the State Government may direct that the land specified in the notification shall be taken possession of or, as a case may be, the right or interest specified therein shall stand extinguished from such date as may be specified in the direction.

(2) With effect from the date specified in the direction issued under sub-section (1), the said land shall vest absolutely in the State Government free from all encumbrances or, as the case may be, the said right or interest in the land shall stand extinguished.

CHAPTER—VIII

COMPENSATION

Compon-
sation.

31. (1) Compensation in the manner prescribed by or under this Act shall be paid to any person who sustains damage in consequence of—

(a) the setting back of any building or part thereof in compliance with the notice served by the highway authority under sub-section (2) of section 14;

(b) the refusal of permission to erect or re-erect a building in the area lying in between the control line and building line of a highway under sub-section (4) of section 15;

(c) the acquisition of any land or the extinguishment of any right or interest in land under section 26.

(2) Notwithstanding anything contained in any law for the time being in force, no person shall be entitled to claim any compensation for any injury, damage or loss caused or alleged to have been caused as a result of—

(a) the restriction imposed against the erection or re-erection of a building or the making or extending of any excavation or the laying out of any means of access on or across land lying in between the control line and the middle of a highway under sub-section (1) of section 14 or sub-section (1) of section 15 ;

(b) the regulation or diversion under section 17 of the existing rights of access across lands lying within the control line and the highway boundary, and

(c) the refusal of permission to the laying out of new means of access to a limited access highway under sub-section (3) of section 16.

32. The amount of compensation payable under section 31, the person to whom it is to be paid and the apportionment of such amount among the persons interested therein shall be determined by agreement between the highway authority or any officer authorised by the State Government and the person or persons claiming interest therein.

Determina-
tion of
amount of
compensa-
tion by
agreement.

33. (1) In default of any agreement under section 32, the highway authority or the officer authorised by the State Government shall, subject to the provisions of this Act, after holding an enquiry make an award determining,—

Determi-
nation of
amount of
compensa-
tion in
default of
agreement.

(a) the true area of the land, if any, acquired,

(b) the amount of compensation to be paid under sub-section (2) of section 31,

(c) the apportionment, if any, of such compensation among all persons known or believed to be entitled thereto.

(2) In determining the amount of compensation the matters specified in sections 23 and 24 of the Land Acquisition Act, 1894, as amended by this Act shall be taken into consideration.

34. No compensation shall be awarded—

(i) if and in so far as the land is subject to substantially similar restrictions in force under any other law which was in force on the date on which restrictions were imposed by this Act;

(ii) if compensation in respect of the same restrictions in force under this Act or of substantially similar restrictions in force under any other law has already been paid in respect of the land to the claimant or to any predecessor in interest of the claimant.

No Com-
pensation if
similar restri-
ctions in
force under
any other
law or if
compensa-
tion already
received.

35. When permission to erect any building has been refused under section 15, the amount of compensation shall not exceed the difference between the value of the land as determined by section 23 or 24 of the Land Acquisition Act, 1894, as amended by this Act and the value which it would have had if the permission had been granted. In determining such value any restrictions to which the land is subject under any other law for the time being in force in regard to the right of person claiming compensation to erect a building on the land or otherwise to use, hold or dispose of the same shall be taken into consideration.

Compensa-
tion for
refusal of
permission
to build not
to exceed
difference
between its
value when
it was refu-
sed and
when it
would have
been granted

Compensation for cutting of standing crops, trees, etc.

36. (1) At the time of an entry, survey or measurement or doing of any of the things under section 6, the officer making the entry, survey or measurement or doing any other thing shall pay or tender to any person entitled compensation for all necessary damage done as a result of such entry, survey, measurement or execution of the work, including the cutting of standing crops, trees, or removal of temporary structures, if any, on the land. If the sufficiency of the amount so paid or tendered is disputed, the officer concerned shall at once refer the dispute to the highway authority and the said authority shall with the least practicable delay decide the dispute and pay to the person entitled the amount determined as compensation. The decision of the highway authority shall be final.

(2) If at the time of taking possession of the land under section 30 there are any standing crops, trees or temporary structures on the land, the highway authority shall pay or tender to the person entitled the amount of compensation, for such standing crops, trees or temporary structures. If the sufficiency of such amount is disputed, the value of such crops, trees and temporary structures shall be taken into consideration in determining the amount of compensation for the land under section 33.

No Compensation for unauthorised erections.

37. If any person has unauthorisedly erected, re-erected, added or altered any building on any land which is acquired for the purpose of a highway, then any increase in the value of the land from such erection, re-erection, addition or alteration shall not be taken into account in estimating the value of the land.

No compensation for removal of encroachment.

38. No compensation shall be payable for the removal of any encroachment.

Reference against award of Highway authority or authorised officer under section 33.

39. Any person aggrieved by the award of the highway authority or the officer authorised under section 33 may, by a written application to the highway authority or such officer, require that the matter be referred, if the land in relation to which the award is made is situate,—

(i) in the city of Ahmedabad, to the Principal Judge of the City Civil Court or such other Judge of the said Court as may be nominated by the State Government in consultation with the Principal Judge, and

(ii) elsewhere, to the Civil Court, having pecuniary and territorial jurisdiction.

(2) Any such application shall be made within six weeks from the date of the award and shall be in such form as may be prescribed.

(3) The provisions of section 5, 12 and 14 of the Limitation Act, 1963, shall apply to the computation of the time fixed for reference under sub-section (2).

36 of
1963.

(4) The highway authority or the officer authorised shall make the reference in such manner as may be prescribed.

V of
1908.

40. (1) Reference under section 39 shall be deemed to be proceedings within the meaning of section 141 of the Code of Civil Procedure, 1908, and in the trial thereof the authorities empowered to decide such references may exercise all the powers of a civil court under that Code.

Procedure and powers of the authorities empowered to decide references under section 39.

(2) The scope of the enquiry in such a reference shall be restricted to a consideration of the matters specified in the reference in accordance with the provisions of this Act.

41. If the highway authority or any officer or servant is opposed or impeded in taking possession of any land or in executing any work in or in removing any encroachment on, any such land, the highway authority or officer or servant concerned shall apply in the Cities of Ahmedabad, Baroda, Rajkot and Surat to the Commissioner of police, and elsewhere, to the District Superintendent of police or such police officer as the State Government may empower in this behalf, and the Commissioner, the District Superintendent or the officer so empowered shall use such force as may be necessary for the purpose of taking of possession, execution or removal, as the case may be.

Commissioner of police or District Superintendent of police to use force.

42. The decisions of the authorities empowered to decide references under section 39 shall be enforceable as decrees of a civil court.

Decisions of authorities under section 39 to be enforced as decrees of civil court.

43. (1) On the determination of compensation by agreement under section 32, or

(2) on the making of an award under section 33, or

(3) if a reference is made under section 39 against such award, after the decision of the authority under that section, the highway authority shall make the payment of the compensation awarded to the person entitled there to in accordance with the agreement, its award or the decision of the authority empowered to decide references under section 39. The provisions of sections 31 to 34 (both inclusive) of the Land Acquisition Act, 1894, shall, *Mutatis Mutandis*, apply to such payment.

Payment of compensation awarded.

I of
1894.

PART III

MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS

[CHAPTER VII]

CHAPTER IX

SUPPLEMENTAL PROVISIONS TO SECURE SAFETY OF TRAFFIC AND PREVENTION OF DAMAGE TO HIGHWAY.

[27] 44 (1) Where a highway authority is of opinion that it is necessary for the prevention of danger arising from obstruction of the view or distraction of the attention of persons using any highway, especially at any bend or corner of the highway, it may serve a notice upon the owner or occupier of land alongside or at the bend or corner of such highway to alter or remove all together within such time and in such manner as may be specified in the notice, the height or character of any existing wall (not being a wall forming part of a permanent structure). fence, hedge, tree, advertisement post, bill board or any other object thereon, so as to eliminate or minimise the apprehended danger.

Prevention of obstruction of view or distraction of attention of persons using highway.

(2) If any person upon whom a notice has been served under sub-section (1), objects to comply with any requirement of such notice, he may, [within fourteen days] within thirty days of its receipt, send to the highway authority his objection in writing stating the grounds thereof.

(3) The highway authority shall, within fourteen days of the receipt of the objection, consider the grounds advanced and shall, by order in writing, either withdraw the notice or amend or confirm it.

(4) If a person is aggrieved by an order issued by a highway authority under sub-section (3), he may prefer an appeal [within seven days] within thirty days of the date of such order to the Collector of the district, whose decision in the matter shall be final.

(5) If any person fails to comply with the notice served on him under sub-section (1) as amended or confirmed as the case may be under sub-section (3) or (4), the highway authority may take action to alter or remove the object causing obstruction or distraction of view at its own expense, and such expenditure shall be recovered from such person in accordance with the provisions of section [23] 22 without prejudice to any other action which may be taken against him.

Highway authority to regulate traffic.

[28] 45. If at any time it appears to a highway authority that any highway its charge or any portion thereof is or has been rendered unsafe for vehicular or pedestrian traffic by reason of damage or otherwise, it may, subject to such rules as may be made in this behalf, either close the highway or the portion of it to all traffic or to any class of traffic, or regulate the number and speed of vehicles using the highway.

Prohibition of use of heavy vehicles on certain highway.

[29] 46. Where the highway authority is satisfied that the surface of any highway or a portion thereof, or any bridge, culvert or causeway built on or across any highway, is not designed to carry vehicles of which the laden weight exceeds a certain limit, it may subject to such rules as may be made in this behalf prohibit or restrict the plying of such vehicles on or over such highway or such part of the highway or such bridge, culvert or causeway.

Power of highway authority to control traffic how to be exercised.

[30] 47. (1) Where in pursuance of clauses (3) and (4) of section [7] 8 or in exercise of the powers under section [28 or 29] 45 or 46 the highway authority desires temporarily to close any highway or part of it to traffic or to restrict or regulate traffic thereon in any manner, it shall in writing request the authority authorised to control traffic under Part IV to enforce the restrictions in the said manner.

(2) Where such a request has been received from a highway authority, the authority empowered under Part IV to control traffic shall take all necessary measures to enforce the said restriction in accordance with the provisions of that Part.

Procedure to be followed when highway to be closed.

[31] 48. (1) Where in pursuance of clause (3) of section [7] 8 or in exercise of the power under section [28] 45 a highway authority desires permanently to close down any highway or part thereof, it shall give notice of its intention so to do in the *Official Gazette*, and shall cause further publicity to be given to the notice in the manner prescribed under sub-section (4) of section [11] 12.

(2) The notice shall indicate the alternative route, if any, which is proposed to be provided or which may already be in existence, and shall also invite objections if any, to the proposal to be submitted [within such time as may be specified.] within thirty days from the date of the Official Gazette in which notice appears.

(3) The highway authority shall finalise its proposal to close down any highway or part of it after considering the objections if any received [within the specified time] within the period of thirty days referred to in sub-section (2) and shall submit the final proposal to the State Government for approval together with such objections as may have been received against the proposal.

(4) The State Government may either approve the proposal, with or without modifications, or reject it.

(5) When the State Government has approved the proposal, it shall publish its orders in the *Official Gazette*, and it shall lay the orders before the State Legislature as soon as may be after they are so published.

(6) When the orders of the State Government have been published in the *Official Gazette*, the highway authority shall arrange for further publicity to be given to the orders in the manner prescribed under sub-section (4) of section [11] 12 and the highway or part thereof shall then be closed.

(7) Whenever any highway or any part thereof has been so closed, reasonable compensation shall be paid to every person who was entitled, otherwise than as a mere member of the public, to use such highway or part as a means of access to or from his property and has suffered damage on account of such closing.

(8) Where an alternative route has been provided or is already in existence, the amount of compensation payable to any person under sub-section (7) shall in no case exceed the cost of laying a new means of access from his property to such alternative route.

(9) Where compensation is payable under sub-section (7), the claimant shall, within 3 months of the closing of the highway or part, make [to the State Government his claim for compensation, and such claim shall be disposed of in accordance with the provisions of sub-section (3) of section 17 and sub-section (1) of section 18.] to the highway authority or the officer authorised by it, his claim for compensation and such claim, unless determined by an agreement under section 32, shall subject to section 39 be decided by the highway authority or as the case may be, by the authorised officer.

[32] 49 (1) Notwithstanding anything contained in any other enactment for the time being in force, no person other than a highway authority or its authorised agent shall construct or carry any cable, wire, pipe, drain, sewer or channel of any kind through, across, under or over any highway, except with the specific consent of the highway authority.

Consent of highway authority required to do certain acts on highways.

(2) (a) A person desiring to construct or carry any cable, wire, pipe, drain, sewer or channel of any kind through across, under or over any highway, shall make an application to the highway authority for its consent in such form as may be prescribed.

(b) The highway authority shall on receipt of such application decide whether the consent may be given or not and make an order to that effect within thirty days from the date of the receipt of such application.

(c) Where no order is made by the highway authority under clause (b) within the period specified in that clause the consent applied for shall be deemed to have been granted.

[(2)] (3) In giving its consent, the highway authority may impose such conditions as it may deem to be necessary and may also fix a rent or other charge for any land forming part of the highway occupied by or applied to the proposed work.

[(3)] (4) If any person constructs or carries out any work in contravention of sub-section (1) the highway authority may arrange for the removal of such work and restoration of the highway to its former condition in accordance with the provisions of section [21] 20 as if the work constituted an encroachment on the highways, and such expenses as the highway authority may incur for this purpose, shall, without prejudice to any other action that may be taken against such person, be recovered from him in accordance with the procedure prescribed under section [23] 22 in so far as that procedure is applicable.

Prevention
and rectifi-
cation of
damage to
highway.

[33] 50 (1) No person shall wilfully or negligently cause, or allow [any vehicle or animal] any mechanically propelled vehicle in his charge to cause any damage to any highway.

(2) Where in contravention of sub-section (1) any damage has been caused to any highway the highway authority shall have the damage repaired and the expenses involved, shall, without prejudice to any other action that may be taken against the person responsible for the contravention of sub-section (1), be recovered from him in accordance with the procedure prescribed under section [23] 22 in so far as that procedure is applicable.

[CHAPTER—VIII]

CHAPTER—X

SURVEY OF HIGHWAY LANDS AND HIGHWAY BOUNDARIES FOR PREPARATION OF AUTHORITATIVE PLANS

Power of
State
Government
to order
survey,
&c.

[34] 51 (1) Where, in pursuance of sub-section (3) of section [8] 9, a highway authority wishes to have a survey made with a view to the preparation of authoritative plan or plans for any highway in its charge it shall request the State Government in writing to order the survey and appoint a Survey Officer for the purpose.

(2) If, on receipt of such request and after making such further enquiries as may be deemed necessary, the State Government is satisfied about the need for such survey, it may, by notification published in the *Official Gazette*, order that the proposed survey shall be made and shall simultaneously appoint a Survey Officer for the purpose.

[35] 52 (1) When a survey has been ordered under section [34] 51 the Survey Officer appointed for the purpose shall publish a notification in the *Official Gazette* inviting all persons having or claiming to have any interest on the lands adjoining the highway or its boundaries of which the survey has been ordered, to attend either in person or by agent at a specified place and time and from time to time thereafter when called upon for the purpose of pointing out the boundaries and supplying information in connection therewith.

Survey
Officer to
publish
notification.

(2) The survey Officer shall cause further publicity to be given to the notification issued by him under sub-section (1) in the manner prescribed in sub-section (4) of section [11] 12.

(3) A notification published in accordance with sub-section (1) and further published in accordance with sub-section (2) shall be held to be a valid notice to every person having or claiming to have any interest in the land or boundary or boundaries of which the survey has been ordered.

[36] 53 (1) The Survey Officer shall give a special notice to the highway authority concerned intimating the date and time from which the survey of the highway shall be carried out.

Notice by
Survey
Officer to
highway
authority
to make
representa-
tions.

(2) The highway authority shall, on receipt of such special notice, take such steps as may be deemed necessary to watch the survey proceedings and to make representation to the Survey Officer whenever it has reason to believe that the interests of the highway are being or likely to be adversely affected.

[37] 54 (1) The Survey Officer shall have power to determine and record as undisputed any boundary in respect of which no dispute is brought to his notice.

Power of
Survey
Officer to
determine
and record
undisputed
boundary.

(2) Notice of every decision of the Survey Officer under sub-section (1) shall be given in the prescribed manner to the registered holders of the land the boundaries of which may be affected by the decision and also to the highway authority concerned.

[38] 55 (1) Where a boundary is disputed, the Survey Officer, after making such enquiry as he considers necessary, shall determine the boundary and record it in accordance with his decision and shall also record in writing the reasons for his decision.

Power of
Survey
Officer to
determine
and record
a disputed
boundary.

(2) Notice of every decision of the Survey Officer under sub-section (1) shall be given in the prescribed manner to the parties to the dispute to the highway authorities and to the other holders of the land the boundaries of which may be affected by the decision.

Appeals
against
order of
the Survey
Officer
under
Sections
[37 and 38]
54 and 55

[39] 56 (1) The highway authority or any other person affected by the decision under section [37] 54 or section [38] 55 may, within three months of the date of service of notice under those sections, appeal to the Collector of the district and the decision of such officer shall be recorded in writing and notice of such decision given in the prescribed manner to the parties to the appeal. Any modification of the Survey Officer's decision ordered by the appellate authority shall be noted in the record prepared under section [37] 54 or section [38] 55 as the case may be.

(2) No appeal preferred after the expiry of the said period of three months shall be admitted:

Provided that the time taken to obtain a copy of the decision and the map under sub-section (3) shall not be taken into account, in calculating the said period of three months.

(3) A copy of the order and a copy of the map recording the boundaries as determined under section [37] 44 or section [38] 55 or sub-section (1) of this section, shall be furnished to the highway authority or to any person interested in such order or map, as the case may be, on the application to the Survey Officer and on payment of such reasonable cost as may be fixed by the Survey Officer.

Completion
of demar-
cation
to be
notified by
Survey
Officer.

[40] 57 (1) When the survey of any highway land or its boundaries which has been notified under section [34] 51 has been completed in accordance with the orders passed under section [27, 38 or 39] 54, 55 or 56 the Survey Officer shall notify the fact in the *Official Gazette* and shall cause further publicity to be given to the notification in the manner prescribed under sub-section (4) of section [11] 12.

(2) Unless the survey so notified is modified by a decree of a Civil Court under the provisions of section [11] 58 the record of the survey shall be conclusive proof that the boundaries as determined and recorded therein have been correctly determined and recorded and shall not be questioned in any court of law.

Institution
of suit in
civil court
by person
aggrieved
by determi-
nation of
boundary.

[41] 58 (1) The highway authority or any other person deeming itself or himself aggrieved by the determination of any boundary under section [37, 38 or 39] 54, 55 or 56 may, subject to the provisions of the Parts II and III of the Limitation Act, 1963, institute a suit within a year from the date of the notification under sub-section (1) of section (40) 57 to set aside or modify the said determination, and the survey, shall, if necessary, be altered in accordance with the final decree in the suit, and the alteration, if any, shall be noted in the record.

(2) The plaintiff in such suit shall join as parties to it all persons including the highway authority (where such authority is not itself the plaintiff) whom he has reason to believe to be interested in the boundary which is the subject of the suit.

[CHAPTER—IX]

CHAPTER—XI**OFFENCES, PENALTIES AND PROCEDURE APPLICABLE TO PARTS II AND II**

[42] 59 Whoever contravenes any provision of Parts II and III or of any rule made under any such part shall, if no other penalty is provided for the offence, be punishable with fine which may extend to fifty rupees, or, if having been previously convicted of any offence under this Act he is again convicted of an offence under this Act, with fine which may extend to two hundred rupees.

General provision for punishment of offences under Parts II and III.

[43] 60 Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction or obstructs such person or authority in discharge of his functions which he or it is required or empowered under this Act to discharge, or, being required by or under this Act, to supply any information withholds such information or gives information which he knows to be false or which he does not believe to be true shall, if no other penalty is provided for the offence, be punishable with fine which may extend to two hundred rupees.

Disobedience of orders, obstruction and refusal of information.

[44] 61 Whoever constructs or lays out any means of access or erects or re-erects any building or structure or does any other work in contravention of sub-section (1) of section [13] 14 sub-section (1) of section [14] 15 or sub-section (3) of section [15] 16 shall be punishable,—

Penalty for contravention of restrictions.

(a) with fine which may extend to five hundred rupees, and

(b) with further fine which may extend to one hundred rupees for each day after such conviction during which the offending means of access or structure or work is not removed, demolished or cleared and the site not restored to its original condition.

[45] 62 Whoever occupies or makes any encroachment on any highway land in contravention of sub-section (1) of section [20] 19 or fails to comply with the notice served on him under sub-section (1) of section [21] 20 for no valid reason, he shall on conviction, be punishable with,—

Penalty for unauthorised occupation of highway land.

(a) a fine which may extend to two hundred fifty rupees for the first offence, and

(b) with further fine which may extend to five hundred rupees plus a further fine which may extend to fifty rupees each day that the offence is continued in the event of a second conviction in relation to the same encroachment.

[46] 63. Whoever in contravention of sub-section (1) of section [33] 50 wilfully causes or allows [any vehicle or animal] any mechanically propelled vehicle in his charge to cause any damage to any highway shall be punishable with fine which may extend to one thousand rupees.

Penalty for causing damage to highways.

power to compound offences.

[47 The highway authority may, either before or after the institution of the proceedings, compound an offence against Parts II and III or any rule framed thereunder.]

64 The highway authority may either before or after the institution of the proceedings for any offence under this Act or rules made thereunder compound the same and where it so compounds an offence it shall submit to the State Government and the State Advisory Committee a report of such compounding along with the reason therefor within one month from the date on which the offence is compounded.

PART IV

TRAFFIC PROVISIONS

[CHAPTER X]

CHAPTER XII

CONTROL OF TRAFFIC

Exclusion of motor vehicles from the scope of Part IV.

[48] 65. In this Part unless the context otherwise requires, the expressions "public vehicle" and "vehicle" shall not be construed to include a motor vehicle.

Power to restrict the use of vehicles.

[49] 66. The State Government or any authority authorised in this behalf by the State Government, if after consulting the highway authority, is satisfied that it is necessary in the interest of public safety or convenience, or because of the nature of any road or bridge to do so, may, by notification in the *Official Gazette*, prohibit or restrict, subject to such exceptions and conditions as may be specified in the notification, the driving of vehicles or animals, either generally in specified area or on a specified highway or part of highway and when such prohibition or restriction is imposed, shall cause appropriate traffic signs to be placed or erected under section [50]67 at suitable places:

Provided that where any prohibition or restriction under this section is to remain in force only for a period of one month or less, notification thereof in the *Official Gazette* shall not be necessary.

Power to erect traffic signs.

[50] 67. (1) The State Government or any authority authorised in this behalf by the State Government may cause or permit traffic signs to be placed or erected in any public place for the purpose of bringing to public notice any prohibitions or restrictions imposed under section [49] 66 or generally for the purpose of regulating traffic other than motor vehicle traffic.

(2) Traffic signs erected under sub-section (1) for any purpose for which provision is made in the Ninth Schedule to the Motor Vehicles Act, 1939, for the time being in force shall be of the size, colour and type and shall have the meanings set forth in the said Schedule.

(3) Except as provided by sub-section (1) no traffic sign shall, after the commencement of this Act, be placed or erected on or near any highway; but all traffic signs erected prior to the commencement of this Act, by any authority competent to do so shall for the purpose of this Act, be deemed to be traffic signs erected under the provisions of sub-section (1).

(4) Any authority authorised in this behalf by the State Government, by notification in the Official Gazette, may remove or cause to be removed any sign or advertisement which is so placed in his opinion as to obscure any traffic sign from view or any sign or advertisement which is in his opinion so similar in appearance to a traffic sign as to be misleading.

(5) No person shall wilfully remove, alter, deface or in any way tamper with any traffic sign placed or erected under this section.

(6) If any person accidentally causes such damage to a traffic sign as renders it useless for the purpose for which it is placed and erected under this section, he shall report the circumstances of the occurrence to a police officer or such authority as may be authorised in this behalf by the State Government or at a police station as soon as possible, and in any case within twenty four hours of the occurrence.

IV of 1939. [51] 68. The State Government or any authority authorised in this behalf by the State Government may, by notification in the Official Gazette or by the erection at suitable places of the appropriate traffic signs referred to in Part A of the Ninth Schedule to the Motor Vehicles Act, 1939 for the time being in force, designate certain roads for the purpose of the regulations contained in the [First Schedule] Second Schedule.

Main roads.

[52] 69. (1) Every driver of vehicle or animal shall drive it in conformity with any indication given by a mandatory traffic sign and in conformity with the driving regulations set forth in the [First] Second Schedule and shall comply with all directions given to him by any police officer for the time being engaged in the regulation of traffic in any public place.

Duty to obey traffic signs.

IV of 1939. (2) In this section "mandatory traffic sign" means a traffic sign included in Part A of the Ninth Schedule to the Motor Vehicle Act, 1939, for the time being in force or any traffic sign of similar form (that is to say consisting of or including a circular disc displaying a device word or figure and having a red ground or border) or any prescribed sign painted or marked on the road erected or displayed for the purpose or regulating traffic other than motor vehicle traffic under sub-section (1) of section [50] 67.

[53] 70 The driver of a vehicle shall on the occasion specified in the [Second] Third Schedule make the signals specified therein.

Signals and signalling devices.

[54] 71. No person in charge of a vehicle or animal shall cause or allow the vehicle or animal to remain at rest on any highway in such a position or in such a condition or in such circumstances as to cause or likely to cause danger, obstruction or under inconvenience to other users of the highway.

Leaving vehicle or animal in dangerous position.

Towing of persons riding cycles.

[55] 72 No driver of a vehicle shall tow a person riding a cycle and no person riding a cycle shall allow himself to be towed by any other vehicle.

Leaving vehicle or animal unattended.

[56] 73. No person in charge of a vehicle or animal shall allow such vehicle or animal to stand or proceed on a highway unless it is under adequate control.

Duty of driver to stop in certain cases.

[57] 74. (1) The driver of a vehicle or animal shall cause the vehicle or animal as the case may be to stop and to remain stationary so long as may reasonably be necessary;

(a) When required to do so by any police officer in uniform or by the authority authorised in this behalf by the State Government, or

(b) When the vehicle or animal involved in the occurrence of an accident to a person, animal or vehicle or of damage to any property, whether the driving or management of the vehicle or animal was or was not the cause of the accident or damage, and he shall give his name and address and the name and address of the owner of the vehicle or animal to any person affected by such accident or damage who demands it, provided such person also furnishes his name and address.

(2) The driver of a vehicle or animal shall on demand by a person giving his own name and address and alleging that the driver has committed an offence punishable under section [64] 81, give his name and address to that person.

Duty of owner of vehicle or animal to give information.

[58] 75. The owner of a vehicle or animal the driver of which is accused of any offence under this Act shall on demand by any police officer or other authority authorised in this behalf by the State Government give all information regarding the name and address of the driver which is in his possession or could by reasonable diligence be ascertained by him.

Duty of driver in case of accident and injury to person.

[59] 76. When any person is injured, or damage to property to the amount of twenty five rupees or more is caused as a result of an accident in which a vehicle is involved the driver of the vehicle or other person in charge of the vehicle shall,—

(a) take all reasonable steps to secure medical attention for any person so injured and if necessary, convey him to the nearest hospital, unless the injured person, or his guardian, in case he is a minor, desires otherwise;

(b) give on demand by a police officer by any authority authorised in this behalf by the State Government any information required by him, or if no police officer or other authority is present, report the circumstances of the occurrence as soon as possible, and in any case within twenty four hours of the occurrence, at the nearest police station, or if he continues his journey after the accident, at the nearest police station on or near his route,

[60] 77 (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

Power to
make
rules for
control of
traffic.

(2) Without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:—

(a) the removal and the safe custody of the vehicles including their loads which have broken down or which have been left standing or have been abandoned on highways;

(b) the use of weighing devices;

(c) the determination maintenance and management of parking places for the use of vehicles and animals and the fees, if any, which may be charged for their use ;

(d) prohibiting the use of foot-paths or pavements by vehicles or animals ;

(e) subject to specified conditions the segregation to any specified part of a highway to specified classes and description of vehicle or animal traffic ;

(f) prohibiting or restricting the use of audible signals at certain times or in certain places ;

(g) regulating the loading of vehicles and in particular limiting the loads carried in relation to the size and nature of the tyres fitted;

(h) a right of way for ambulances and fire brigade vehicles;

(i) the control of animals likely to frighten other animals or pedestrians;

(j) prohibiting the use of devices designed to prevent the rotation of any wheel of a vehicle;

(k) the control of children on highways;

(l) prohibiting the riding by more than one person at the same time of cycles other than cycles designed for the purpose;

(m) prohibiting the riding of more than two cycles abreast ;

(n) limiting the age of drivers of vehicles ;

(o) the inspection of loads carried on vehicles and animals;

(p) the use of nose-ropes for animals ;

(q) regulating the driving of vehicles and animals at night;

(r) regulating the use of highways by pedestrians ;

(s) generally, the prevention of danger, injury or annoyance to the public or any person, or of danger or injury to property or of obstruction to traffic ;

(t) any other matter which is to be or may be prescribed;

[CHAPTER XI]

CHAPTER XIII

CONSTRUCTION, EQUIPMENT AND MAINTENANCE OF VEHICLES

General provision regarding construction and maintenance of vehicles.

[61] 78. Every vehicle used on a highway shall be so constructed and maintained as to prevent danger or inconvenience to person using that vehicle and other road users.

Power to make rules for regulating construction etc. of vehicle used on highways.

[62] 79. (1) The State Government may make rules regulating the construction, equipment and maintenance of vehicles used on highways.

(2) Without prejudice to the generality of the foregoing powers, rules may be made under this section governing any of the following matters either generally in respect of vehicles or in respect of vehicles of a particular class or description or in particular circumstances, namely:—

(a) the width, height and length of vehicles ;

(b) the size, nature and condition of wheels and tyres ;

(c) brakes ;

(d) lamps and reflectors ;

(e) warning devices ;

(f) the inspection of vehicles by prescribed authorities ;

(g) regulating the particulars exhibited on vehicles and the manner in which particulars shall exhibited.

[CHAPTER XII]

CHAPTER XIV

OFFENCES, PENALTIES AND PROCEDURE APPLICABLE TO PART IV.

General provision for punishment of offences under Part IV.

[63] 80. Whoever contravenes any provision of this Part of any rule made thereunder shall, if no other penalty is provided for the offence be punishable with fine which may extend to ten rupees, or, if having been previously convicted of any offence under this Act he is again convicted of an offence under this Part with fine which may extend to fifty rupees.

[64] 81. [(1)] Whoever drives a vehicle or animal on a highway at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case including the nature, condition and use of the highway where the vehicle or animal is driven and the flow of traffic which actually is at the time or which might reasonably be expected to be on the highway, shall, without prejudice to any other penalty to which he may be liable under any other law for the time being in force, be punishable on a first conviction for the offence with fine which may extend to one hundred rupees and for any subsequent offence with fine which may extend to four hundred rupees.

Driving
recklessly by
or danger-
ously.

Bom.
VII of
1920.

[(2) If a person who is the holder of licence to drive a public conveyance under the Bombay Public Conveyance Act, 1920, is convicted under sub-section (1) for a third or any subsequent offence then, notwithstanding anything contained in the said Act, his licence shall be liable to be cancelled by the Court convicting him for such offence.]

[65] (1) A police officer in uniform or other authority authorised in this behalf by the State Government may arrest without warrant-

Power of
arrest
without
warrant.

(a) any person who being required under the provisions of this Part to give his name and address refuses to do so, or gives a name or address which the police officer or other authority has reason to believe to be false, or

(b) any person concerned in an offence under this Part or reasonably suspected to have been so concerned, if the police officer or other authority has reason to believe that he will abscond or otherwise avoid the service of summons.

(2) A police officer or other authority arresting without warrant the driver of a vehicle or animal shall, if the circumstances so require, take or cause to be taken any step he may consider proper for the temporary disposal of the vehicle or animal.]

[66] 82. (1) A court taking cognizance of an offence under this Act may state upon the summons to be served on the accused person that he—

summary
disposal
of cases.

(a) may appear by pleader or in person or

(b) may by a specified date prior to the hearing of the charge plead guilty to the charge by registered letter and remit to the Court such sum as the court may specify.

(2) Where an accused person pleads guilty and remits the sum specified, no further proceeding in respect of the offence shall be taken against him.

PART V

[CHAPTER XIII]

CHAPTER XV

GENERAL AND MISCELLANEOUS PROVISIONS

State
Advisory
Committee.

83. (1) The State Government may by notification in the *Official Gazette*, constitute a State Advisory Committee consisting of such persons not less than ten and not more than fifteen as the State Government may appoint from amongst the persons who are in the opinion of the State Government capable of representing the interest of the Chamber of Commerce, Railways, Road Transport, Labour, Communications and Industries, so however that there shall be atleast one member from each of the aforesaid interests.

(2) The Minister incharge of the subject matter of highways, shall be the Chairman of the Committee and the Secretary of the Department of the Government to which the subject matter of highways is entrusted, shall be the *ex-officio* member of the Committee.

(3) The Deputy Secretary of the Department of the Government to which the subject matter of highways is entrusted; shall be the Secretary of the Committee.

(4) The functions of the Committee shall be as under :—

(a) to advise the Government on all general questions pertaining to highways;

(b) to advise the Government or the authority constituted under this Act, in respect of any scheme pertaining to the development of the highways;

(c) to review the administration of this Act and to suggest the ways and means for its improvement;

(d) to suggest the ways and means to remove any difficulty experienced by the competent authority or the highway authority in the administration of the Act;

(e) to make *suo-motu* recommendations to the Government in regard to any matter relating to the administration of the Act;

(f) to report to the State Government on such matters as may be referred to it by the State Government for its opinion.

(5) The State Government may by general or special order provides for—

(a) calling of the meeting of the Committee and procedure thereat;

(b) the duties of the Secretary of the Committee;

(c) the term of the office of and travelling and daily allowances payable to, the members of the Committee.

84. (1) The State Government may, from time to time, constitute for each district a District Advisory Committee consisting of such number of persons as it may think fit and on such terms and conditions as may be prescribed.

District
Advisory
Committees.

(2) The competent authority or, as the case may be, the highway authority may, if it thinks fit, consult the District Advisory Committee concerned, in respect of any function relating to any highway in the district and shall do so in respect of such functions in relation to highways as the State Government may, by general or special order, in this behalf, specify.

(3) A nominee of such highway authority in a district, as the State Government may determine, shall be the *ex-officio* Chairman of the District Advisory Committee.

(4) The District Advisory Committee shall meet at such intervals as may be prescribed, and for transaction of urgent business on such other occasions as the competent authority or, as the case may be, highway authority may require.

(5) The number of members necessary to constitute a quorum at a meeting of District Advisory Committee shall be such as the State Government may, while constituting the Committee, specify.

85. While exercising the powers under the following provisions of this Act by the Highway authority or by any officer or servant authorised to exercise such powers, as little damage as can be, shall be done namely:—

Doing
minimum
damage in
certain
cases.

(a) the entry, survey, measurement and doing of any of the acts on any land under section 6;

(b) the closure of any highway or part thereof under sub-section (3) of section 8 or section 45;

(c) the imposition of restrictions under section 14 and 15;

(d) the regulation or diversion of any right of access to a highway under section 17;

(e) the acquisition of any land or extinguishment of any right or interest in land under section 26.

[67] 86 (1) The State Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for the regulation of the construction and maintenance of highways and generally for carrying into effect the purposes of Parts II and III.

Rules for
regulating
construction
on and
maintenance
of highways

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the preparation of schemes for the development of new or improvement of, or repairs to, existing highways;

(b) the standards that have to be followed in determining a standard width and building and control lines in respect of various types of highway;

(c) the prevention of obstruction of view or distraction of attention of persons using such highways and of annoyance, danger or injury to the public.

(d) the prevention of obstruction, encroachment and nuisances on or near, and of damages to such highways;

(e) the proper maintenance of boundary marks demarcating highway boundaries and building and control lines;

(f) the prescription of various forms of application required to be made and the forms of notice and bills required to be served on persons, the charges to be made for the supply of copies of plan, and the rent or other charges to be imposed or levied under the provisions of this Act;

(g) the general guidance of the highway authority in the discharge of its functions under this Act; and

(h) any matter which is to be or may be prescribed.

(3) All rules made under this Act shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the Legislature or to such modification as the Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

[68] ^{es} (1) Every notice or bill to be issued or prepared under this Act shall be served or presented,—

(a) by delivering or tendering it or sending it by post to the person to whom it is addressed, or to his agent, or

(b) if such a person or his agent is not found then by leaving it at his usual or last known place of the abode or by delivering or tendering it to some adult male member of his family or by causing it to be affixed on some conspicuous part of the building or land, if any, to which it relates.

(2) Where a notice under this Act is required to be served upon an owner or occupier of a building or land, it shall not be necessary to name the owner or occupier, and the service thereof shall be effected either,—

(a) by delivering or tendering the notice or sending it by post to the owner or occupier or if there be more owners or occupiers than one, to any one of them, or

Service
of
notice
etc.

(b) if no such owner or occupier is found, then by giving or tendering the notice to an adult male member or servant of his family or by causing the notice to be affixed on some conspicuous building or part of the land to which the same relates.

(3) Whenever the person to whom a notice or a bill is to be served is a minor, service upon an adult male member or servant of his family shall be deemed to be service upon the minor.

[69] 88. The highway authority may, after obtaining the approval of the State Government by notification in the *Official Gazette*, delegate any of its powers or duties under sub section (3) or sub-section (4) of section [7] or under section [10, 20, 21, 23, 27, 29, 30, 31 or 32] 11, 19, 20, 22, 44, 46, 47, 48 or 49 to any officer or authority subordinate to it subject to such conditions if any, as may be specified in such notification.

Delegation of powers by the highway authority.

45
of
1860.

[70] 89. All persons acting by the authority of the State Government or of any highway authority in the carrying out of any of the provisions of this Act or of any of the rules made under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Persons deemed to be public servant.

[71] 90. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under or in pursuance of this Act or any rules under this Act.

Protection of persons taking action under this Act.

[72] 91. Every police officer shall forthwith furnish information to the nearest highway authority, or the nearest officer subordinate to the highway authority of any offence comming to this knowledge which has been committed against this Act or any rule made under this Act, and shall be bound to assist highway authority and its officers and servants in the exercise of the lawful authority.

Power and duties of police.

[73] A police officer in uniform may arrest without warrant any person who commits in his view an offence punishable under section 45 or 46].

Power of arrest without warrant in cases of offences.

[74] 92. Every village accountant, village watchman or other village official by whatever name called, shall forthwith inform the nearest police station or the nearest highway authority or any officer of the highway authority whenever he becomes aware that any survey mark showing the building or control lines determined in respect of a highway has been destroyed, damaged, removed, displaced or otherwise tampered with, or that any damage to any highway or encroachment on any highway land has been made.

Duties of village officials to report damage to highways or their boundary marks.

[75] 93. The highway authority may utilise temporarily for other than road purposes and forming part of a highway which is not immediately required for the passage of traffic and dispose of the produce of such lands.

Power to utilise highway land for other than road purpose.

Summary
eviction.

94. Any person wrongfully occupying any land,—

(a) which is a part of highway,

(b) the occupation of which contravenes any of the provisions of this Act and the said provisions do not provide for the eviction of such persons,

shall be summarily evicted by the highway authority in the same manner as the Collector is empowered under the Bombay Land Revenue Code, 1879, either *suo motu* or on being required to do so by the officer authorised in this behalf by the State Government.

V of
1879.

Inquiries to
be held
summarily.

95. (1) The highway authority or the officer authorised by the State Government in this behalf shall, if it or he desires to make any inquiry for the purposes of this Act, make the inquiry in the manner provided for holding a summary inquiry under the Bombay Land Revenue Code, 1879 and all the provisions contained in the said Code relating to the holding of a summary inquiry, shall, so far as may be apply.

V of
1879.

(2) The highway authority and an officer authorised by the State Government or by the highway authority under this Act shall have the same powers for summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents, as are vested in the revenue officer under the Bombay Land Revenue Code, 1879.

V of
1879.

Land
acquired
by direct
negotiation
to be
subsequently
acquired
under
[Land
Acquisition
Act, 1894.]
this Act.

[76] 69. Where in pursuance of clause (2) of section [7] 8 sub-section (10) of section [11] 12 or sub-section (1) of section [26] 25, a highway authority has acquired any land by direct negotiations with the owner or owners it shall cause the interest, if any, of other person or persons in such land to be acquired under [The land Acquisition Act, 1894, in so far as that Act may be applicable] this Act to ensure perfect title thereto.

Savings.

[77] 97. (1) Subject to the provisions of this section nothing in this Act, shall affect—

(a) the rights of any local authority to make any excavation for the purpose of laying, making, altering, repairing or renewing any sewer, drain, water course or other work; or

(b) the rights of any authority appointed under any law for the time being in force for gas or water, electricity, railway; tramways or trolley vehicles to erect any support or make any excavation for the purpose of laying, making, altering, repairing or renewing any main pipe, sluice, weir, electric line, duct, drain or other apparatus; or

(c) any land belonging to a railway administration or belonging to or used by a person holding a licence or sanction for generation, transformation or distribution of electricity under the Indian Electricity Act, 1910, when such land is held or used by the railway administration or such person, as the case may be, for the purpose of its railway or for generation, transformation or distribution of electricity, except so far as they may consent thereto; or

IX of
1910.

(d) any land within the limits of a cantonment or a port declared by or under any law made by Parliament or existing law to be major port;

(e) any land within the jurisdiction of a local authority under the administrative control of the Central Government :

Provided that—

(i) any restrictions in force under section [13] 14 as to construction, formation or laying out of means of access to, or from, any road shall without any such consent as aforesaid extend to any such land as is specified in clause (e) in so far as the restrictions relate to means of access over or under such land to, or from, land other than land so specified; and

(ii) any consent required for the purpose of this section shall not be unreasonably withheld and the question whether or not the consent so required is unreasonably withheld shall be determined by the State Government and the decision of the State Government on the question shall be final.

XIII
of
1885.

(2) Nothing in this Act shall affect any powers and duties of the telegraph authority under provisions of the Indian Telegraph Act, 1885.

Guj.
XXV
III of
1961.
Guj.
22 of
1972.

[*Explanation.*—For the purpose of this section the Gujarat Housing Board constituted under the Gujarat Housing Board Act, 1961, and the Gujarat Rural Housing Board constituted under the Gujarat Rural Housing Board Act, 1972, shall be deemed to be a local authority.]

XLV
III of
1956.

[78] 98. For the avoidance of doubt it is hereby declared that nothing in this Act shall apply to highways which are or have been declared by or under the National Highways Act, 1956 to be national highways:

Building
and control
lines along
national
highways.

Provided that if any highway is declared to be a national highway by or under the National Highways Act, 1956 [it shall be lawful for the State Government to fix the building and control lines for different portions of the said highway under section 7] it shall be lawful for the highway authority to fix the building and control lines for different portions of the said highway under section 13 and thereafter the provisions of this Act in so far as they apply to the restrictions on buildings between the high-way boundary and the building line or between the building line and the control line and other provisions relating to such building and control lines shall *mutatis mutandis*, apply.

Bom.
LV of
1955.

[79] 99. (1) The Bombay Highways Act, 1955 and that Act as extended to the Kutch area of the State of Gujarat are hereby repealed.

Repeal
and
savings.

Bom.
I of
1904.

(2) The provisions of the Bombay General Clauses Act, 1904 shall apply to the repeal of the Acts referred to in sub-section (1) :

Provided that anything done or any action taken under the provisions of the Acts hereby repealed shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force until superseded by anything done or any action taken under the provisions of this Act.

THE FIRST SCHEDULE

[See Sections 33(2) and 35]

AMENDMENTS TO THE LAND ACQUISITION ACT, 1894.

Amendment
of section
23 of Act
I of 1894.

1. For section 23 of the Land Acquisition Act, 1894 (hereinafter called the said Act), the following shall be substituted namely :—

I of
1894.

Matters to
be consid-
ered in
determining
compensa-
tion.

“23. In determining the amount of compensation to be awarded for the land or any interest therein acquired under this Act the following matters shall be taken into consideration:—

(1) the market value at the date of the publication of the declaration under section 26 of the Gujarat Highway Act, 1982;

Guj.
of
1982.

(2) the use to which the land was put at the date of such declaration;

(3) the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time when the possession was taken from him;

(4) the damage (if any) sustained by the person interested at the time of the possession being taken from him by reason of severing such land from his other land;

(5) the damage (if any) sustained by the person interested at the time of the possession being taken from him of the land by reason of the acquisition injuriously affecting his other property, moveable or immovable, in any other manner or his earnings;

(6) if in consequence of the acquisition of the land the person interested is compelled to change his residence, or place of business, the reasonable expenses, if any, incidental to such change.”

Amendment
of section
24 of Act
I of 1894.

2. For section 24 of the said Act, the following shall be substituted, namely:—

Matters
to be ne-
glected
in deter-
mining
compensa-
tion.

“24. But the following matters shall not be taken into consideration:—

(1) the degree of urgency which has led to the acquisition;

(2) any disinclination of the person interested to part with the land acquired;

(3) any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

Guj. of
1982.

(4) any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 26 of the Gujarat Highways Act, 1982 by or in consequence of the use to which it will be put;

(5) any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

(6) any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put;

Guj.
of
1982.

(7) any outlay or improvements on, or disposal of the land acquired, commenced, made or effected without the sanction of the Highway Authority after the date of the publication of the declaration under section 26 of the Gujarat Highways Act, 1982;

(8) the special suitability or adaptability of the land for any purpose, if that purpose is a purpose to which it could be applied in pursuance of any law or for which there is no market apart from the special needs of the highway authority;

(9) any increase in the value of the land by reason of the use thereof or any premises thereon in a manner which could be restrained by any court, or is contrary to law or is detrimental to the health of the inmates of the premises or to the public health."

[THE FIRST SCHEDULE]

THE SECOND SCHEDULE

(See sections [51] 68 and [52] 69)

DRIVING REGULATIONS

1. The driver of a vehicle or animal shall drive the vehicle or animal as the case may be, as close to the left-hand side of the highway as may be expedient and shall allow all traffic which is proceeding in the opposite direction to pass him on his right hand side.

2. Except as provided in regulation 3, the driver of a vehicle or animal when passing on a highway shall drive to the right of all traffic proceeding in the same direction as himself.

3. The driver of a vehicle or animal when passing on a highway may drive to the left of motor vehicles or a vehicle or an animal the driver of which having indicated an intention to turn to the right has drawn to the centre of the road.

4. The driver of a vehicle or animal shall not pass a vehicle including a motor vehicle travelling in the same direction as himself,—

(a) if his passing is likely to cause inconvenience or danger to other traffic proceeding in any direction, or

(b) where a point or corner or a hill or an obstruction of any kind renders the road ahead not clearly visible.

5. The driver of a vehicle or animal shall not, when being over-taken or being passed by any class of traffic, do anything in any way to prevent the other traffic from passing him.

6. The driver of a vehicle or animal shall drive slowly when approaching a road intersection, a road junction or a road corner and shall not drive into or cross any such intersection or junction until he has become aware that he may do so without endangering the safety of persons thereon.

7. The driver of a vehicle or animal shall on entering road intersection, if the road entering is a main road designated as such, give way to traffic proceeding along that road and in any other case way to all traffic approaching the intersection on his right hand.

8. The driver of a vehicle or animal shall,—

(a) when turning to the left, drive as close as may be to the left hand side of the road from which he is making the turn and of the road which he is entering.

(b) when turning to the right, drive as near as may be to the centre of the road along which he is travelling and cause the vehicle or animal to move in such a manner that,—

(i) so far as may be practicable it passes beyond and so as to leave on the driver's right hand a point formed by the intersection of the centre lines of the intersecting roads; and

(ii) it arrives as near as may be at the left hand side of the road which the driver is entering.

[THE SECOND SCHEDULE]

THE THIRD SCHEDULE

(See section [53]?)

SIGNALS

1. When about to turn to the right or to drive to the right hand side of the road in order to pass another vehicle (including a motor vehicle) or for any other purpose, the driver of a vehicle shall extend his right arm, or a whip if carried in a horizontal position to his right outside the vehicle or otherwise so as to be visible from behind.

2. When the driver of a vehicle wishes to indicate to the driver of a motor vehicle or a vehicle behind him that he desires that driver to overtake him, he shall extend his right arm, or a whip if carried, horizontally to his right outside the vehicle or otherwise so as to be visible from behind and shall swing the arm or the whip as the case may be backwards and forwards in a semicircular motion.

APPENDIX—I

(Vide para 2 of the Report)

Motion as adoted by the House in its sitting held on 20th July, 1982 for reference of the Bill to Select Committee.

“That the Bill No. 51 of 1982.—The Gujarat Highways Bill, be referred to a Select Committee consisting of following members with instruction to report before the 15th January, 1983,—

1. Shri Khodidan Bhimji Zula, Minister for Buildings & Communication,
2. Shri Jashwantsinh Chauhan,
3. Shri Vadilal Kamdar,
4. Shri Dinker Desai,
5. Smt. Ushaben Patel,
6. Shri Shashikant Lakhani,
7. Shri Virjibhai Dafda,
8. Shri Karamshibhai Makwana,
9. Shri Manjurhusain Pirzada,
10. Shri Ramlal Ruplal,
11. Shri Prabhatsinh Parmar,
12. Shri Shantilal Patel,
13. Shri Harisinh Chavda,
14. Shri Ashok Bhatt,
15. Shri Becharbhai Palasana.

The Speaker appointed Shri Khodidan Bhimji Zula as the Chairman of the Committee under rule 156 of the Gujarat Legislative Assembly Rules.

APPENDIX—II.

(*Vide* para 5 of the Report)

List of M.L.A./Individuals/Organisations etc. from whom Memoranda, containing amendments/suggestions etc. were received by the Select Committee

- (1) Shri U. F. Gohel, M.L.A.
- (2) Shri R. M. Modi, Ahmedabad.
- (3) Shri Akhil Bharatiya Hinsa Nivaran Sangh, Ahmedabad.
- (4) Shri Rasiklal Dave, Vadnagar.
- (5) M/s. Hemant Brothers, Ahmedabad.
- (6) Shri I. I. Patel, Bharuch.

APPENDIX—III

(*Vide* para 5 of the Report)

List of persons who represented personally before the Committee.

- (1) Shri R. M. Modi, Ahmedabad.
- (2) Shri Vikrambhai & Hemantbhai Broker. Representatives of M/s Hemant Brothers, Ahmedabad.