

THE PAROCHIAL ROADS ACT

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SCHEDULE

Cap. 277.
 Laws
 44 of 1953,
 35 of 1956
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 42 of 1969
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 27 of 1979
 S. 14.
 13 of 1985
 S. 18
 Short title.

THE PAROCHIAL ROADS ACT

[11th February, 1932.]

1. This Act may be cited as the Parochial Roads Act.

2.—(1) In this Act—

Interpreta-
 tion.

“Parish Council” or “Council” means the Parish Council of each parish and shall include, with reference to the parishes of Kingston and St. Andrew, the Kingston and St. Andrew Corporation constituted under the Kingston and St. Andrew Corporation Act;

“carriage” includes carts, waggons, drays, wheel carriages of every description, bicycles, tricycles and other similar machines;

“Waywarden” means any person to whom the Council may delegate any authority in regard to the maintenance of any parochial road.

(2) “Superintendent of Parochial Roads and Works” in this or any other Act shall include the officer appointed by the Kingston and St. Andrew Corporation to discharge or charged with the performance of the duties of such officer.

Jurisdiction of Parish Councils

3. It shall be lawful for the Minister from time to time to make rules for the guidance of the Parish Councils. Such rules may give directions concerning the keeping of the records of the Councils, and the keeping and auditing of accounts, and may also provide generally for the guidance of the Councils, and for the regulation of their proceedings. Such rules shall be published in the *Gazette*, and shall come into operation on the date of such publication, or on such other date as may be therein specified. Until such rules

Power to
 make rules
 for Parish
 Councils.

come into operation the Minister may direct whatever might be directed by such rules.

Extent of jurisdiction of Parish Council.

4. Each Parish Council shall have the exclusive care, management, control and superintendence of all highways, and of all public roads, thoroughfares, streets, lanes, aqueducts, and bridges, in the parish for which it is appointed, except such roads as are otherwise governed and regulated under laws of this Island, specially relating thereto, and except the roads under the superintendence of the Chief Technical Director.

Appointment and Duties of Superintendent of Parochial Roads and Works

Superintendent of Parochial Roads and Works—his appointment.

Schedule Form 4.

5.—(1) The Parish Council of every parish shall from time to time appoint a fit and proper person (who shall have obtained from the Chief Technical Director a certificate that he possesses sufficient technical knowledge evidenced by past services or by diplomas, or a certificate of competency in the Form 4 in the Schedule) to be the Superintendent of the highways, roads, thoroughfares, streets, lanes, aqueducts, bridges, works and buildings, under the care, management, control and superintendence, of the Parish Council; and any person so appointed shall be termed "Superintendent of Parochial Roads and Works".

35/1956 S. 16.

(2) Such Superintendent shall be paid such salary as may be determined by the Council with the sanction of the Minister, out of the General Fund of the parish.

His status and duties.

6.—(1) The Superintendent of Parochial Roads and Works appointed as aforesaid shall be the Chief Executive Officer and Adviser of the Parish Council in relation to Parochial Roads and Works.

(2) He shall report to the Council upon the works, repairs or alterations, required to be done on any of the roads, buildings or works of the parish and, when required

by the Council, furnish plans, specifications and estimates, of the cost of such works, repairs or alterations; he shall, subject to the directions of the Parish Council, carry out, or superintend and control the carrying out of such works, repairs or alterations, as may be sanctioned by the Council; he shall examine and report upon all work done for the Council before the same shall be paid for save as in sections 7 and 8 provided, so that after the appointment of a Superintendent of Parochial Roads and Works in any parish all accounts in relation to the roads and works shall be certified by the Superintendent of Parochial Roads and Works before payment, save as in sections 7 and 8 provided, and generally he shall do all other work in relation to the Parochial Roads and Works as may be denoted by his title or office.

(3) The Superintendent shall enter into bond for the faithful discharge of his duties, and for the true and accurate accounting for all parochial funds expended by or through him, in such sum and form as the Council shall determine.

7. It shall be lawful for the Parish Council of any parish, in its discretion, to pay any account for work performed in or upon the Parochial Roads or Parochial Works of such parish not exceeding the sum of twenty dollars, on the certificate of an Assistant Superintendent of Parochial Roads and Works appointed under this Act, or of any other person appointed by the Council to inspect and report on such work, to the effect that he has personally inspected and examined such work, and that it has been properly and satisfactorily performed.

Power to pay small accounts on certificates of Assistant Superintendents or persons appointed by the Council.

8. It shall be lawful for the Parish Council of any parish, in its discretion, to pay any instalment on account of any contract for work performed or to be performed in and about the Parochial Roads or Parochial Works of such parish, on the certificate of any such Assistant Superintendent or other person appointed as aforesaid, to the effect that he has personally inspected and examined such work so far

Power to pay instalments on account of contracts on similar certificates.

as completed, and that the same has been properly and satisfactorily done, and stating what in his opinion, is the value of the work so done :

Provided nevertheless that a reserve of at least ten per cent of the value of the work reported to be done shall be kept back, to be paid only upon the final report of the Superintendent of Parochial Roads and Works.

Duty of Superintendent of Parochial Roads and Works not affected by this Act.

9. Nothing herein shall exempt the Superintendent of Parochial Roads and Works of any parish from the duty of inspecting, examining and reporting upon, all work upon or in connection with the Parochial Roads or Parochial Works of such parish as soon as practicable.

Power to make by-laws.

10. The Parish Councils shall have power to frame rules and by-laws for the governance and regulation of the office of Superintendent of Parochial Roads and Works.

Appointment of Waywardens and Assistant Superintendents

Appointment, removal and qualification of Waywardens.

11.—(1) The Parish Council of each parish may from time to time appoint and remove as many Waywardens as they shall deem necessary in each district, and every Waywarden so appointed may take upon himself and perform the several duties hereby imposed upon him :

Provided, that every such Waywarden shall be resident near, and interested in the condition of the particular road or roads for which he shall be appointed.

(2) All Waywardens appointed in any parish shall be subordinate to the Superintendent of Parochial Roads and Works and act as his assistants and subject to his directions and instructions.

As to pay of Waywarden.

12. No Councillor of a Parish Council and no Waywarden shall be entitled to any remuneration or fee of any kind or nature whatsoever for his services under this Act.

13. The Parish Council of each parish may from time to time appoint as many Assistant Superintendents as they may deem necessary, to superintend the execution of the works ordered by the said Council or by the Waywardens, to be executed. Every such Superintendent shall hold office during the pleasure of the Council, and shall, whilst holding office, be entitled to draw salary at such rates as the Council may determine with the approval of the Minister.

Appoint-
ment and
salary of
Assistant
Superintend-
ents.

Duties and Powers of Parish Councils

14. It shall be lawful for the Parish Councils of the several parishes to cause surveys for new roads to be made, and to give directions for the repairing of the roads, streets, bridges, highways, and watercourses, and for the immediate removal of all nuisances therefrom, and for the prosecution of such offences against the provisions of this Act as in their opinion ought to be prosecuted.

Powers of
Parish
Councils.

15. Unless in any case the contrary appear, the boundary of any parochial bridle road shall be the fence or bank or precipice running along it on either side when such fence, bank or precipice, is within six feet of the centre of the roadway, measuring in a direction at right angles to the road; and where there is no such fence, bank or precipice, then the boundary shall be a line at all points six feet from the centre of the roadway, measuring as aforesaid.

Boundaries
of parochial
bridle road.

16. The Parish Council of each parish may, at any meeting held after the first day of October in each year and before the first meeting in January, allot a sum not exceeding four-fifths of the whole amount applicable within the year for parochial road purposes within such parish, among the several districts of the parish, for repairs and maintenance of parochial roads and bridges within such districts respectively. The residue of the moneys aforesaid not so allotted shall be retained for subsequent allotment from time to time by the Parish Council or special grants for repairs from time to time under

Maintenance
of parochial
roads and
bridges.

the authority of the Parish Council as unforeseen requirements become known.

Powers of Parish Councils to contract as to repairs of roads.

17. It shall be lawful for the Parish Councils to enter into contracts, with any one or more person or persons, for repairing and keeping in repair, for one or more years, any roads or bridges, or portions of roads or bridges :

Provided, that the moneys to be payable in any year under any such contracts shall not exceed the sum allotted or apportioned to the roads or bridges, or portion of road or bridge, the subject of any such contract; and that such repairs shall be subject to the inspection and approval of the Councillor or Councillors of the Parish Council for such district or division :

Provided also that it shall not be lawful for the Parish Councils to lay out or expend, or to direct the expenditure of, any larger sum in the whole upon the roads and bridges of their respective parishes in any one year, than shall have been sanctioned and appropriated for that purpose.

Mile marks and guide posts.

18. The Parish Councils shall cause mile marks of stone, wood or iron to be erected on such roads as they may think proper, at the distance of one mile from each other, with such legible inscription as they shall judge necessary; and also shall cause guide posts to be erected at the intersections of such roads as they shall think proper, and guide posts in water-courses, to show the height of water therein, and shall keep in repair all mile marks and guide posts.

As to lowering the classification of parochial roads of general thoroughfare into other parishes.

19. In the case of a parochial road of general thoroughfare to different parts of the Island, no alteration shall be made by the Parish Council of any parish through which such roads shall pass, in the classification of any such road, by converting it into a lower class, with consequent diminution of the allotment of road money thereon, without their giving three months' previous notice of any such intended alteration, with the reasons for the same, to the Parish

Council of the adjacent parish or parishes through which such road shall pass; and if the Parish Council of any parish through which such road shall pass shall object to such alteration, they shall communicate such objections, with their reasons, to the Parish Councils of the several parishes interested in the road in question; and in case the Parish Councils of all the said parishes shall not agree, the reference and objections, with their respective reasons, shall be submitted to the Minister for his direction, and his decision in the matter shall be final.

20. It shall be competent for any Parish Council to appeal to the Minister, when it shall appear to them that the interests of the public are affected by the neglect of any road of general thoroughfare by the Parish Council of any adjacent parish through which such road may pass, and it shall be lawful for the Minister to determine whether such road shall or shall not be forthwith repaired out of the funds at the disposal of the Parish Council of the parish where such neglect shall have occurred.

As to
complaints
of neglect
of any
such road.

21. Any six freeholders in any parish may apply to the Parish Council of the parish to alter or discontinue any road or to lay out a new road; such application to be in writing, addressed to the Parish Council and signed by the persons applying, and the Council shall take such application into their consideration.

As to
laying out,
altering,
or dis-
continuing
a road.

22. Before the Parish Council shall come to any determination on any such application, they shall cause notice, in writing, to be given to the occupants and owners of the land through which such proposed alterations or new road are or is intended to pass, and also to the occupants and owners of the land through which any such road shall then run, of the time and place at which they will meet to decide upon such application; such notice to be served at the expense of the applicants, by delivering the same personally to every

Preliminary
notices,
how, and
on whom
to be
served.

such owner or occupant, or, in case of absence, by leaving the same at his dwelling-house, at least seven days before the day appointed for such meeting.

As to authorizing a surveyor to enter lands, and make surveys for roads.

23. The Parish Council shall, if they think fit to entertain the application, either before or after giving the notice required by section 22, grant a warrant to authorize a commissioned surveyor, employed by the applicants, to enter on all lands and properties, to take the levels and make the necessary traverses and surveys to enable him to make the plans and sections of the said new roads, or alterations of any roads in the parish; and, after three days' notice in writing has been given to the occupiers of such lands and properties, such surveyor and his assistants may enter thereon for the purposes aforesaid, and any person or persons wilfully obstructing such survey shall on summary conviction be liable to a fine of ten dollars.

As to appointing a committee to hear and report on application.

24. Whenever the Parish Council shall have issued or shall propose to issue, a notice under section 22, it shall be lawful for them to appoint a committee of their Council, consisting of three councillors of the Council at the least, which committee shall at such meeting, or an adjournment thereof, hear any reasons that may be offered for or against any such application as shall be the subject of such notice, and if they shall determine to entertain the same, either wholly or in part, they shall report the same to the general Council for confirmation; and, if confirmed, the said members shall make out and subscribe a certificate of such their determination, which certificate shall contain, or be accompanied by, a plan of the road intended to be altered, and of the intended alterations thereto, or of the road intended to be discontinued, or of the new road intended to be laid out, such plan to be furnished by the applicants. The Council shall forthwith give notice thereof to the owners or occupiers of all lands concerned. Such certificate and plan shall remain with the Secretary of the Council; and it shall be

the duty of such Secretary to exhibit the said certificate and plan to any person who may require to examine them.

25. Every owner or occupier of lands through which the line of road or alteration shall pass, shall, prior to the expiration of twenty-one days from the date of the said certificate, deliver to the said Parish Council a statement of his title to the land, and of the compensation which he claims for the damages to be by him sustained.

Owner, etc., to deliver statement of title, and any claim to compensation.

26. It shall be lawful for the said Parish Council and the owners and occupiers of any land through which such road or alteration shall pass, to agree upon the amount to which such owners or occupiers shall be entitled for damages, and for a grant of the land required, and for a release of all claims to damages.

Contracts as to compensation and title.

27. If no agreement as last mentioned shall be made, or claim delivered as aforesaid, it shall be lawful for the Parish Council, at any time after the expiration of fifteen days from the time when such claim ought to have been delivered, to refer the assessment of damages and the title of the parties to the adjudication of the Resident Magistrate of the parish wherein the land to be taken is situated, who shall have power to hear witnesses, and to determine all questions which shall be so submitted to him, and to give judgment thereon, which judgment shall be final; and all damages which shall have been fixed by agreement, or awarded as aforesaid, shall be paid by the said Council, out of the funds at their disposal, before laying out or commencing the road, and no person shall be entitled to damages under this Act until such road shall have been laid out and commenced.

How title and compensation to be ascertained when no contract made.

Allowance where old road and alteration pass through land of same owner.

28. When any person shall be the owner of any land over which any new road, or any alteration of an existing road, shall be made, and also owner of the soil of any portion of the road proposed to be altered, or to be discontinued in whole or in part, the Resident Magistrate of the parish, in the assessment of damages shall take into consideration the value of the road so abandoned, or of such part as will be abandoned, and the benefit to result to the owner therefrom, and shall deduct the same from the damages which otherwise would have been assessed, and it shall be lawful for the owner of the land so abandoned, to enclose the same.

When road or alteration may be commenced.

29. On payment or tender of the amount of damages which shall have been agreed upon or assessed as aforesaid, or in the absence of the owner, or his representative, or if he shall not be known, on payment of such damages to the Accountant-General, it shall be lawful for the said Parish Council, in the case of unenclosed and uncultivated land at once, and in the case of enclosed or cultivated land after the expiration of ten days from the date of such agreement, payment, or tender, to enter upon the said land and cause the said road or portion of road to be commenced and proceeded with.

Deposit in Treasury, how kept.

30. All moneys paid to the Accountant-General shall be kept by him without interest, until claimed by the party entitled thereto.

As to objections from adjacent parishes to any new road, or alteration or discontinuance of a road.

31. If the Parish Council of any adjacent parish shall, at any time before the matter shall be brought before the Resident Magistrate of the parish, give to the Parish Council of the parish in which proceedings shall be pending for the laying out of any new road, or the alteration or discontinuance of an existing road, notice in writing that the proposed alteration or discontinuance or new road will prejudicially affect the roads of such adjacent parish, it shall not be lawful

for the Parish Council of the parish in which the proceedings shall have been commenced to proceed further therewith, until the Council of the adjacent parish shall have withdrawn their opposition, or until on reference to the Minister he shall have decided whether the proposed alteration, or discontinuance, or new road shall be made.

32. A copy of the proceedings and judgment in the Resident Magistrate's Court, certified under the seal of the Court, and the certificate and plan, and every agreement, grant, and release which shall be entered into with the said Parish Council shall respectively be recorded by the Council in the Record Office, and all expenses connected therewith shall be borne by the applicants.

Copy of proceedings to be recorded in Record Office.

33. The expenses of all proceedings under this Act shall be borne by the party or parties at whose instance application shall have been made for the laying out, altering, or discontinuing of any road: And the Parish Councils may require the applicants from time to time to deposit with them such sums of money as may be necessary to complete the proceedings under this Act.

Expenses, how borne, and deposited.

34. There shall be paid for court fees on proceedings in the Resident Magistrate's Court under this Act the sum of two dollars; and to the Deputy Keeper of the Records, for recording the proceedings, after the rate of fifteen cents for every sheet of one hundred and sixty words: And fifteen cents for each division of the plan or diagram.

Fees of Resident Magistrate's Court and of Deputy Keeper of Records.

35. It shall be lawful for the Parish Council of any parish, without receiving any application from freeholders, to come to a resolution that it is expedient to consider the advisability of altering or discontinuing any road or any part of any road, or laying out a new road, and thereupon such Council shall proceed as if application had been made to it under the

Powers of the Parish Councils as to altering roads or laying out new roads. 44/1953 S. 2.

provisions of section 21, and it had thought fit to entertain such application :

Provided always that in any case it shall be lawful for the Council, if it shall see fit, out of the moneys at its disposal applicable to the repair and maintenance of the roads, to pay the charges of the Commissioned Surveyor authorized by it to enter on lands and properties under section 23.

Private roads, as to proceedings for, and expenses of same.

36. Whenever application shall be made to a Parish Council for any private road, and they shall be of opinion that such application is reasonable and well founded, the same mode of proceeding shall be adopted in every respect as in the case of a highway, but the damages awarded, and the expenses of such road, and the maintenance thereof, shall be paid by the party applying for the road.

Use and maintenance of private road.

37. Every such private road, when so laid out, shall be for the use of the applicant, his heirs and assigns, but not to be converted to any other use or purpose than that of a road; and such applicant shall be compelled to keep up and maintain fit and proper fences on each side of such road.

Discontinuance of parochial roads. 44/1953 S. 3.

38. Forthwith upon the determination by a Parish Council in accordance with the provisions of this Act to discontinue any road, that road shall cease to be a public road and all rights of way over the same shall cease at the end of one year after the said determination, and thereafter—

- (a) if the land over which such road lies is vested in the Parish Council for an estate in fee simple, the Parish Council may, with the approval of the Minister, convey or transfer the same on such terms as the Parish Council may think fit; or
- (b) if such land is not so vested in the Parish Council the owner of the adjoining land on either side may enclose up to the centre of the road the part thereof which his land adjoins, so, however, that a person

who owns the adjoining land on both sides may enclose entirely so much of the road as those lands adjoin.

The provisions of this section shall apply to any part of a road as they apply to a road.

39. All highways now in use, laid out under and allowed by any enactment of this Island, of which a record shall have been made in the Record Office, shall be deemed highways, and shall only be altered or discontinued by proceedings taken in conformity with the provisions of this Act.

As to highways now in use, how altered or discontinued.

40. In cases in which lands are laid out by the owner or owners thereof with roads, streets or lanes, intersecting the same, such roads, streets or lanes, shall not be taken over or repairable by the Parish Council until the owner or owners of such lands shall have thoroughly constructed the same to the satisfaction of the Parish Council and the owners of any such lands shall also pay all the costs of and incident to the transfer of such roads, streets and lanes, to the Parish Council.

Private roads not to be taken over by the Councils until completed.

41.—(1) Every person intending to erect any fence or building along or near the boundary, or within thirty feet from the centre line, of a parochial road shall mark out on the ground, by means of pegs or in other sufficient manner, the line on which such fence or building is to be made, and having done so shall give ten days' notice to the Superintendent of Parochial Roads and Works of his having done so, and of his intention to make such fence or building as aforesaid along the said line, before commencing to make such fence or building as aforesaid.

Notice required before fencing or building along the boundary of road.

(2) For the purposes of this section the word "fence" shall include hedge or wall.

(3) Kingston is exempt from the operation of this section.

Consent of Superintendent to erection of fence or building to be reported to the Council.

42. Every consent of the Superintendent of Parochial Roads and Works to the erection of any fence or building along or near the boundary, or within thirty feet from the centre line, of a Parochial Road shall be in writing, and shall be reported by him to the Parish Council within three days after such consent shall have been given.

Width of roads.

43.—(1) The width of all public carriage roads already made, or which hereafter may be laid out by the Parish Council, shall, if practicable, be twenty-four feet when made through open ground, sixty feet through standing wood, and forty feet when the wood is only on one side, and no private road shall be more than forty feet wide.

(2) Notwithstanding anything to the contrary in this section contained, it shall be lawful for the Parish Council of any parish to lay out any public carriage road of a less width than that laid down in this section.

Width of streets and lanes in towns.

44. All streets to be hereafter laid out by the Parish Council in any town, shall be not less than forty feet wide, and all lanes not less than twenty feet wide.

Power to widen existing road.

45. The Parish Council of any parish shall have power, if they think fit, to open all carriage roads to the width herebefore mentioned, which shall have been used as high-ways for twenty years.

When road may be laid out or altered.

46. It shall be lawful to alter any road, or to lay out a new road, and to pay the damages in respect thereof, whenever the said Parish Council shall have funds at their disposal.

47.—(1) The Parish Council of any parish may, with the approval of the Minister, by instrument in writing, grant to any person permission to construct or lay down, maintain and use any works across, under, or above any parochial road in that parish in accordance with such specifications for such purposes and subject to such conditions as may be prescribed in the instrument.

Power to grant permission to construct or lay down work across, above, or under parochial roads. 44/1953 S. 4.

(2) A Parish Council may, with the approval of the Minister, revoke any permission granted under this section if the works in respect of which it was granted are not constructed, laid down, or maintained in accordance with the specifications prescribed as aforesaid or are used otherwise than for any purposes so prescribed or in contravention of any condition so prescribed.

(3) Upon the revocation of any permission granted under this section, the owner of the works in respect of which it was granted shall, within such time as the Council, with the approval of the Minister, may specify, remove such works from across or above or under the parochial road and shall restore such road as nearly as may be practicable to the condition in which it was immediately before the construction or laying down of such works.

(4) For the purposes of this section—

“the Minister” means the Minister responsible for local government;

“works” includes any roadway, railway, tramway, wireline, conveyor belt, cableway, chute, aerial ropeway, viaduct, aqueduct, flume, siphon, and any other works similar to any of the foregoing.

48.—(1) The Superintendent of Parochial Roads and Works may divert the traffic from any parochial road, whilst the same is under repair or impassable, on to uncultivated land without notice to the owner or occupier thereof, and on to cultivated land after giving to the owner

Power to temporarily divert the traffic of a parochial road.

or occupier thereof at least twenty-four hours' notice in writing of his intention so to do.

(2) In exercising the powers conferred by this section the Superintendent of Parochial Roads and Works shall do as little damage as possible to the lands over which such powers are exercised, and shall, as soon as the parochial road aforesaid is repaired so that traffic on it can be resumed, restore and make good all damage done by reason of such diversion.

(3) The Parish Council shall make compensation to the owners and occupiers, and all other parties interested therein, for all damages sustained from or in consequence of such diversion over any cultivated land, so, however, that notice in writing of any claim for compensation be given to the Parish Council within six months after the doing of the thing in respect of which compensation is claimed.

(4) Such compensation shall be settled by agreement or in the manner prescribed by the Lands Clauses Act.

Power to throw upon adjoining land any earth, fallen upon any road, from landslip or otherwise.

49.—(1) When from a landslip or other cause a quantity of earth, stones or other matter, has fallen upon any road and it is deemed expedient to clear away the same, it shall be lawful for the Parish Council of the parish or any person acting under their orders, on giving twenty-four hours' notice to the person in occupation of any land adjoining the said road, to clear away the same by throwing it on to such land (the same not being the ground whereon any house stands, or the garden, yard, planted walk or avenue to any house), and for the purpose aforesaid, and for the purpose of repairing any damage thereby done to the said land, to enter thereon and if necessary to break down any fence :

Provided always that if the land on which the material is thrown as aforesaid is cultivated or is otherwise reclaimed from its natural state, the parties aforesaid shall clear away

the said material from the said land, and otherwise repair as far as practicable any damage they may have done.

(2) Compensation shall be given to the occupier of any land cultivated, or otherwise reclaimed from its natural state, in respect of the temporary use of the said land as aforesaid, and to the owner and occupier according to their respective interest in respect of any permanent damage done to the said land and not fully repaired.

50. In case the amount of compensation to be paid is not agreed upon the same shall be assessed, in manner provided by section 27.

How compensation to be ascertained.

Encroachments

51. The following shall be deemed to be encroachments on a parochial road—

Encroachments defined.

- (a) any fence, building, or construction, erected on or over any part of the road;
- (b) any tree, or any branch, bough, or other part of a tree, fallen upon or over any part of a road;
- (c) any tree, branch, bough, or other part of a tree or any shrub, projecting upon or overhanging the road, or planted, or placed upon the road without authorization from the Parish Council;
- (d) any debris or refuse, or the obstruction of any part of the road, remaining or resulting from anything done, by, or on behalf of, the owner or occupier of any land, fence, building, or construction, adjoining the road;
- (e) any tree, or any branch, bough, or other part of any tree, fallen from any land or fence adjoining a river, or stream, or watercourse, which shall cause, or tend to cause, the water to flow over, or otherwise to injure the road;

- (f) any pit, cutting, or excavation, in, upon, or under any land adjoining the road, which may be, or may become dangerous to persons or animals using the road, and which is not sufficiently fenced or otherwise made safe;
- (g) any stone, earth, timber, or other substance, thrown into or placed in any river, stream, or watercourse, which shall cause, or tend to cause the water to flow over or otherwise to injure the road;
- (h) any stone, earth, timber, or other substance, thrown into, or placed in any drain or watercourse, which shall impede the drainage of water from the road;
- (i) any artificial canal, conduit, or pipe, from which any water escapes on to any road, owing to the defective construction or maintenance of the same in any part of its course. In any such case the encroachment shall be deemed to proceed from the land on which the canal, conduit, or pipe, is defectively constructed or maintained;
- (j) any earth, stone, timber, metal, or any article of any description whether similar to the foregoing or not, left upon or deposited upon the road without the authority of the Parish Council;
- (k) any gate erected or maintained on the road without the permission of the Parish Council, or after such permission shall have been revoked by such Council, or without a watchman being kept constantly near to the gate, whensoever the same shall be shut, for the purpose of opening it when required by any person using the road;
- (l) any penguin fence erected after the tenth day of April, 1896, abutting on the road and not having the penguins planted on the top of a wall or earthen bank not less than two feet in height, or a fence of wood, or iron wire, fixed between the penguins and the road;

- (m) any penguins spreading themselves from any penguin fence, so as to extend over any part of a road;
- (n) any pipe, drain, or conduit, discharging water on to the roadway of any Parochial Road from any house or premises adjoining such road.

52.—(1) Whenever there shall exist any encroachment on a parochial road, the owner or occupier of the land, fence, or construction, from which such encroachment proceeds, or the owner of the thing constituting the encroachment, or the person by whom the thing constituting the encroachment was left upon or deposited upon the road, shall, after receiving a notice signed by or on behalf of the Superintendent of Parochial Roads and Works, requiring him so to do, forthwith remove or abate the same at his own cost.

Notice to remove encroachments.

(2) The notice shall specify the nature of the encroachment, and state a reasonable time within which it must be removed.

(3) At the expiration of the time specified in such notice, or without any such delay, if the encroachment endangers, or impedes, or threatens or is likely to endanger or impede the traffic on the road, or the drainage of the road, the Superintendent of Parochial Roads and Works may remove the encroachment or cause it to be removed in such manner as he may think fit.

53. Where the Parish Council directs the removal of any encroachment—

- (a) if the encroachment cannot be conveniently removed without entering on the land from which it comes, the Superintendent of Parochial Roads and Works may, with any necessary assistants, enter for the purpose without giving any further notice;

Power for removal of encroachments by direction of Parish Council.

- (b) neither the Parish Council, nor the Superintendent of Parochial Roads and Works, nor any person acting under the authority either of the Parish Council or of such Superintendent in the removal, shall be liable for damage occasioned thereby, unless the same is caused by their or his neglect or default;
- (c) the cost of the removal shall be paid by the owner or occupier of the land from which the encroachment proceeds, or of the thing constituting the encroachment, or by the person by whom the thing constituting the encroachment was placed upon or deposited upon the road, and shall be recoverable, together with the costs of recovery, in the same way as penalties are recoverable under section 100 of the Lands Clauses Act;
- (d) anything constituting the encroachment shall be forfeited, and the Parish Council may sell or otherwise dispose of it, unless the owner previously redeems it by payment of the full costs of removal;
- (e) whenever such thing constituting the encroachment is disposed of by the Parish Council, the net proceeds, after deducting all costs of removal and disposal, shall be credited to the person liable for costs of removal and shall be allowed in the settlement of such costs, and any excess of net proceeds over costs shall be paid to the owner or occupier of the land, fence or construction from which such encroachment proceeds or to the owner of the thing placed upon or deposited upon the road, as the case may be.

Obstructions in Roads and Streams

54. If any tree shall fall into any highway, so as to cause obstruction thereon, such tree shall be removed by the owner

As to case
of tree
falling upon
a highway.

or occupier of the land from which such tree shall have fallen, within twenty-four hours after notice to remove the same; and, if such owner or occupier shall neglect to remove such fallen tree, then any Superintendent, Waywarden, or Councillor of the Parish Council of the district, or division shall cause the same to be removed at the expense of such owner or occupier, and such owner or occupier shall be liable to a penalty of fifty cents for every day after the expiration of such notice during which the same shall have remained unremoved, which expenses may be recovered as penalties are herein directed to be recovered; and if any person shall wilfully place any tree or other obstruction on any highway, he shall be liable to a penalty not exceeding ten dollars for every offence.

55. In case any person shall, unless by the order or consent of the owner or occupant, cut down any tree on land not occupied by him, so that it shall fall into any highway, river, or stream, he shall be liable to a penalty not exceeding ten dollars, nor less than two dollars, for each offence.

As to trespasser cutting a tree so as to fall on highway, etc.

56. Whoever shall cut, or cause to be cut down, any tree, so that the same shall fall into any river, stream, or watercourse, or obstruct any road, or fording, or divert the river course so as to encroach upon or injure, or tend to injure any highway, or any bridge, and shall not remove the same out of such river, stream, watercourse, or road within twenty-four hours after notice thereof, shall forfeit a sum not exceeding ten dollars for each offence.

As to cutting tree so as to obstruct highway or watercourse.

57. The owner or occupier, or his agent, attorney, or overseer, respectively, of the land next adjoining to every road or bridge shall cut, prune, or lop the fences, and also cut, prune, or lop the branches of trees, bushes, or shrubs

Who to trim trees and fences near highway.

growing in or near such fences of the land adjoining as aforesaid (such fences, trees, or shrubs not being in any garden, or orchard, walk, or avenue to any house, such trees, bushes, or shrubs, not being an ornament or shelter to a house, unless the same shall hang over the road or bridge, or any part thereof, so as to impede or annoy any carriage or person travelling thereon), in such manner that the road or bridge shall not be prejudiced by the shade thereof, and that the sun and wind may not be excluded from such road or bridge to the damage thereof; and if within fourteen days after notice given in writing for that purpose by any Councillor of a Parish Council, Waywarden, or other person thereunto authorized for the time being for any parish respectively, any such owner or occupier, his agent, attorney, or overseer, shall not cut, prune, or lop, or cause to be cut, pruned or lopped such fences, or cut down or lop, or cause to be cut down or lopped, such trees, branches of trees, bushes, and shrubs in manner aforesaid, the Waywarden, or other person appointed, or to be appointed as aforesaid, in case of default by any owner or occupier, his agent, attorney, or overseer as aforesaid, is hereby required to cause to be cut, pruned, or lopped such fences, trees, branches of trees, bushes, and shrubs in manner aforesaid; and such owner or occupier, his agent, attorney, or overseer shall be charged with, and shall pay the charges and expenses of doing the same; and in default of payment thereof, the said charges and expenses may be recovered, together with the costs, if any, incurred on the proceeding, as any penalty under this Act :

Provided, that nothing herein contained shall apply to roads passing through unfenced runs of woodland.

Penalty for
wanton
injury to
bridge or
highway.

58. Whoever shall wantonly injure any public bridge or highway shall, for every such offence, forfeit a sum not exceeding one hundred and twenty dollars.

Repairs

59.—(1) For the purposes of laying out, maintaining, widening or repairing any parochial road, or any private road kept open for the use of the public and repaired at private expense, the Parish Council, by themselves or by their Superintendents of Parochial Roads and Works, or by any person acting under their orders, may enter any private land and—

Powers of
Parish
Councils
in relation
to roads.

- (a) when the Parish Council is advised that—
- (i) a parochial road is from any cause unfit for traffic, make, on lands adjoining a parochial road, a temporary road, and if necessary a bridge, to be used by the public while the parochial road is being maintained, widened or repaired; or
 - (ii) it is necessary for the preservation or safety of a parochial road or for the purposes of flood control, alter, change, or regulate, the course of any river, stream, or watercourse, not being navigable and whether artificial or not;
- (b) cut drains in or through any lands adjoining a parochial road for the purpose of preventing water from collecting or flowing on, or near, any parochial road, or of carrying off any water collected on, or near, any parochial road, and may enter such land for the purpose of cleaning or maintaining such drains;
- (c) dig, collect, and carry away, any gravel, stone, sand, or other similar road making materials, from any land within the parish without payment of royalty:

Provided that this power shall not be exercised in relation to any habitable or cultivated land, and that any excavation so caused shall be filled in, fenced, or walled around, by the Parish Council;

- (d) deposit on any such adjoining land any spoil, refuse, or material, from any landslide or parochial road;
- (e) use and occupy any such adjoining land, not being habitable or cultivated land, for such purposes.

(2) Save in cases of urgent necessity, the powers conferred under paragraphs (a), (b), (c) and (e) of subsection (1) shall not be exercised unless seven days' notice in writing of intention to exercise such powers has been given to the occupier of such land.

(3) Where any power conferred by this section is exercised in relation to any land, then any owner or occupier of such land injuriously affected by reason thereof may, within six months of the exercise of such power, claim compensation by notice in writing addressed to the Parish Council setting out the particulars of such claim. No compensation shall be payable where notice claiming compensation is not received by the Parish Council within six months of the act in respect of which compensation is claimed.

(4) Any compensation claimed or payable under this section shall be settled, in default of agreement, under the Lands Clauses Act.

(5) Every person who molests, hinders, or obstructs, any other person in the exercise of any power or right conferred by this section, shall, on summary conviction before a Resident Magistrate, be liable to a fine not exceeding twenty dollars.

(6) For the purposes of this section—

“parochial road” includes any road, thoroughfare, street, lane, aqueduct, or bridge, under the care, management, control or superintendence of the Parish Council;

“habitable land” means land on which there is any house, or any yard, garden, or provision ground, attached to any house, whether enclosed or not;

“cultivated land” means land on which there is any garden, orchard, provision ground or cultivated trees or plants, whether enclosed or not :

Provided that the presence of a few cultivated trees or plants on any land shall not *per se* be sufficient to constitute such land cultivated land.

60. If any person shall, without the consent of the Parish Council, take away any materials which shall have been purchased, or gathered for the repair or use of any road, street, or bridge, or take away materials out of any quarry or pit which shall have been made, dug, or opened for the purpose of getting materials for any road, street, or bridge, every such person so offending shall, for every offence, forfeit and pay a sum not exceeding twenty dollars :

Penalty for unlawfully removing materials for repairs.

Provided, that nothing herein shall prevent the person in possession of the land on which such quarry or pit is situated from digging and removing materials thereout for his own use.

61. If any corporation, society, or company for supplying any city, town, or other place with water, shall dig, or cause to be dug in any road, street, lane, or thoroughfare, any trenches or holes for laying down or repairing any water pipe, or plug, or other thing connected therewith, and shall keep the same, or cause or permit the same to be kept open for a longer period than shall be reasonably requisite or necessary, or shall cover over or fill up the same, or cause or permit the same to be covered over or filled up, in an imperfect manner, or shall occasion or suffer, or permit to be occasioned, any damage or injury to any road, street, lane, or thoroughfare, by reason of the imperfect state or want of repairs of any such pipe, or plug, or other thing connected therewith, every such corporation, society, or company shall, for every such offence, forfeit a sum not exceeding forty dollars over and above the expenses to be incurred in the

Offences in laying down or repairing pipes in thoroughfare.

repairs of such road, street, lane, or thoroughfare, to be recovered as hereinafter mentioned.

Offences

Offences.

62. Any of the following persons shall be guilty of an offence against this Act, and shall be liable, on summary conviction, to a penalty not exceeding the amount herein specified in respect of such offence—

- (a) any owner or occupier of land from which any encroachment proceeds, or the owner of anything constituting any encroachment, who after due notice shall not within the time specified in the notice have removed such encroachment—ten dollars;
- (b) any person who hinders or obstructs the Parish Council, or any person duly authorized by them, while acting under the provisions of this Act—twenty dollars;
- (c) any person who cuts down any tree so that the same falls into a parochial road or obstructs a parochial road, or diverts a river, stream, or water-course, so as to make it encroach upon or injure a parochial road, and does not forthwith set about to remove the same—ten dollars;
- (d) any person who, without permission from a Parish Council, takes any materials from any road, or from any quarry, or excavation, or place of deposit, made and used in connection with the undertaking—ten dollars:

Provided that nothing herein shall prevent the person in possession of the land on which such quarry or excavation is situated, or any person authorized by him, from digging materials therefrom and carrying away the materials so dug;

- (e) any driver of a carriage who rides upon that or any other carriage, or upon the shafts thereof, or upon any beast drawing the same, on any parochial road, without having some other person on foot to guide such carriage or unless the same is or are effectually guided and controlled by the driver thereof by means of reins—four dollars;
- (f) any driver of a carriage who leaves the same standing upon any parochial road without some proper person to hold the beast or beasts attached to the same, or who is negligently or wilfully at such a distance from the carriage, or in such a situation, that he has not proper control over the beast or beasts attached to the same—four dollars;
- (g) any driver of a carriage who, by negligence or misbehaviour, causes hurt or damage to any person's horse, cattle, carriage or goods, on any parochial road—four dollars;
- (h) any driver of a carriage, or of any horses, mules or other beasts of draught or burden, on any parochial road who, when meeting or being overtaken by any other carriage or beast of burden or draught, does not keep his carriage or horses, mules or beasts of draught or burden, on the left or near side of the road, except when in the act of passing another carriage, horse, mule, or beast of draught or burden going in the same direction—four dollars;
- (i) any person who wilfully or negligently prevents, hinders or intercepts, the free passage of any other person, or any carriage or beast, on any parochial road, or who draws up any carriage in such manner as to obstruct the free passage along the road—four dollars;

- (j) any person who rides or drives furiously on any parochial road or in a manner dangerous to other persons using the road—ten dollars;
- (k) any person who wilfully or through negligence causes damage to any parochial road, or any wall, bridge, culvert, fence, mile post, guide post, drain or other structure, pertaining thereto—four dollars;
- (l) any person who, having blocked or scotched the wheel of a carriage, allows the stone or other thing used for the purpose to remain on the roadway after the carriage has moved away—four dollars;
- (m) any person who draws any logs, stones or heavy articles, upon any parochial road, otherwise than upon a wheeled carriage—four dollars;
- (n) any person who uses any instrument for retarding the progress of any carriage, whereby the road is unnecessarily injured—four dollars;
- (o) any person who leaves any carriage upon any parochial road, except in case of an accident, or in that case for a longer time than is necessary to remove the same—four dollars;
- (p) any driver of a carriage any part of which, or of the lading or any shaft or outrigger of which shall extend laterally more than six inches beyond the axle—four dollars;
- (q) *[Deleted by Act 13 of 1985, S. 18.]*
- (r) any person who removes or destroys any barrier placed on a parochial road by the Parish Council, or any person authorized by them, for the purpose of diverting the traffic—four dollars;
- (s) any person leading or driving any horse, gelding, mare, filly, mule, or donkey, loaded or unloaded, and not attached to a wheeled vehicle, along any

mountain bridle road, and neglecting to have such animal under proper control by means of ropes or reins—four dollars;

- (t) any person who allows any horned stock, horse, mule, ass, sheep, goat or pig, to be at large on any road, except whilst being lawfully driven along such road—four dollars:

Provided that this provision shall not apply to the owner or occupier of any unfenced land any of whose animals as aforesaid are allowed to be at large on the portion of the road that traverses such land;

- (u) any person riding, driving or being upon any carriage, bicycle, tricycle or other similar machine on a road who contravenes or fails to comply with any of the provisions of section 66—four dollars;
- (v) the owner of any horned stock, horse, mule, ass, sheep, goat, or pig tethered on any road, or so tethered as to be able to stray on any road—four dollars;
- (w) any person who tethers, or allows to be tethered, on any road, or so as to be able to stray on any road, any horned stock, horse, mule, ass, sheep, goat, or pig—four dollars;
- (x) any person driving or riding any carriage, who upon overtaking any carriage, or any horse, or other beast of burden, or any foot passenger, being or proceeding along the carriage way, or on approaching a corner, neglects or fails, within a reasonable distance from and before passing such carriage, horse, or other beast of burden, or such foot passenger, or from and before passing such corner, to sound a bell, or whistle, or otherwise give audible and sufficient warning of his approach—four dollars;

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(1953 Edn.
Omitted).

- (y) any person riding, driving or being upon or in charge of any carriage, other than a motor vehicle within the meaning of the Road Traffic Law who uses, or sounds, a horn operated by means of a pneumatic bulb as a means of giving warning of the approach of such carriage—four dollars.

Acts and things prohibited to be done at or near the boundaries of parochial roads.

63. Every person who shall—

- (a) cut away or cause or procure to be cut away any hillside or bank or land adjoining any parochial road, and whether above or below such road, whereby the stability of such road is or may be lessened, or the safety of persons passing along it is or may be endangered; or
- (b) work or cultivate, or cause or procure to be worked or cultivated, any part of any hillside or bank on land adjoining any parochial road, and whether above or below such road as aforesaid, within five feet of the boundary of a parochial road, where such hillside or bank slopes more than one foot in three; or
- (c) plant or cause to procure or be planted any coconut tree within thirty feet from the centre line of a parochial road; or
- (d) erect any fence or building along or near the boundary, or within thirty feet from the centre line, of a parochial road without marking out the same and giving the notice by this Act required, or having marked out such line and giving such notice shall, except with the consent in writing of the Superintendent of Parochial Roads and Works, commence to erect such fence or building otherwise than along the line marked out as aforesaid,

shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding four dollars for every such offence.

Power to Destroy or Impound Stock

64. [Repealed by Act 27 of 1979, section 14.]

65. It shall be lawful for the Superintendent of Parochial Roads and Works in any parish, or any person or persons acting under his authority, or any constable, to destroy, or cause to be destroyed, any swine or goats at large on any parochial road;

Destruction
of swine
or goats
on parochial
roads.

Provided always, that the powers conferred by this section, shall not apply in respect of pigs or goats belonging to, or kept by the owner of any unfenced private land, through, or along which, any such road passes, within the boundaries of such owner's land.

Lights on Carriages in Use on Roads

66.—(1) On every carriage (except motor vehicles as defined in the Road Traffic Act) in use on a road within the period specified in this section, and save as in subsection (2) mentioned—

Lamps and
lights on
road during
specified
period.

- (a) two front lamps at least shall be carried and shall be so constructed and affixed on the outside of the carriage as to show when lighted white lights adequate to signal the approach or position of such carriage; one of such lamps shall be placed on the extreme right or off side, and the other on the extreme left or near side of the carriage, and in such a position as to be free of all obstruction to the light;
- (b) except where the front lamps when lighted exhibit red lights visible from the rear within a reasonable distance, a tail lamp shall be carried so placed and in such a position, free of all obstruction, as to exhibit when lighted a red light visible in the reverse direction at a reasonable distance:

Provided that it shall be sufficient for a cart, waggon or dray to be fitted with one lamp so placed as to exhibit to the traffic on the road a white light adequate to signal the approach or position of such cart, waggon or dray and a red light visible within a reasonable distance in the reverse direction.

(2) On every bicycle, tricycle, or other similar machine, when in use on a road within the period specified in this section, one front lamp at least shall be carried, so affixed thereto as to show when lighted a white light adequate to signal the approach or position of such machine and a tail lamp so placed and in such a position, free of all obstruction, as to exhibit a red light visible in the reverse direction at a reasonable distance :

Provided that it shall not be necessary to carry a lamp showing a red light to the rear if such machine has attached thereto an unobscured and efficient red reflector.

(3) Every such lamp shall be kept properly trimmed and ready for lighting and shall be lighted when the carriage, bicycle, tricycle, or other similar machine is in use on any road during the period between one half hour after sunset and one half hour before sunrise.

(4) Notwithstanding anything in this section contained when a carriage is stationary it shall be sufficient for the same to be fitted with one lamp so placed as to exhibit on the side of the carriage exposed to the traffic on the road a white light visible within a reasonable distance in the direction in which the carriage is intended to proceed, and a red light visible within a like distance in the reverse direction.

Legal

No stamp
duty.

67. No deed, contract, or agreement, nor any proceeding to be executed or entered into, or taken under or by virtue

of the provisions of this Act, shall be subject or liable to any stamp duty.

68. All penalties imposed by this Act shall be recovered in a summary manner before the Resident Magistrate for the parish, or any two Justices not being councillors of the Parish Council for such parish; and, in default of payment thereof, the court may direct the offender to be imprisoned with or without hard labour for any period of time not exceeding six calendar months, unless any such penalty be sooner paid. Penalties
how
recovered.

69.—(1) It shall be lawful for any councillor of the Parish Council, or officer appointed by the Parish Council, and for any constable, or peace officer and for all persons whom they shall respectively call to their assistance, to take into custody without warrant, any person who shall, within view of any such councillor of a Council, officer, constable, or peace officer commit any offence enumerated in this Act, to be dealt with according to law, as the circumstance of the case may require. Powers of
summary
arrest.

(2) The power of arrest conferred by this section on a constable shall extend to cases where although any such offence has not been committed in his view, such constable is informed by some person known to him that such offence has been committed in the sight of such person, and is required by him to arrest the offender :

Provided that no constable shall arrest any person on the information of any other person as aforesaid unless he shall take both the informer and the person accused to the nearest police station that the informer may sign the charge sheet, or before a Justice for the purpose of laying an information.

(3) No person shall be liable to be arrested under this section if, on demand, he shall give his name and address unless the constable or other person having power of arrest

under this section has reason to believe and believes the name and address given to be false.

Commence-
ment of
prosecu-
tions.

70. The prosecution of offenders punishable in a summary manner under this Act shall be commenced within six calendar months after the commission of any such offence, and not later.

Use of the
forms.
Schedule.

71. The several forms in the Schedule may be used for the several purposes of this Act, so far as the same shall be applicable, and may be modified or altered, as the circumstances may require.

Saving
Clause.

72.—(1) All rules and by-laws in force at the date of the commencement of this Act shall remain in operation so far as they are not inconsistent with the provisions of this Act until they have been rescinded or replaced by rules or by-laws made under this Act.

(2) All offices, appointments, orders, notices, documents, proceedings, and generally all acts of authority, which originated under any repealed enactment and are subsisting and in force at the commencement of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the provisions of this Act.

SCHEDULE

No. 1—Appointment of Waywarden or Assistant Superintendent

Appoint-
ment of
Waywarden
or Assistant
Superintend-
ent.

At a meeting of the Parish Council for the parish of
held in the said parish on the _____ day of
A.B., etc., was appointed a _____ for the said parish Section 71.
(for the district of the said parish, *as the case may be*) for the purpose
of carrying into execution (in such district or division), the provisions
of the Act now or hereafter to be in force respecting highways; and
the said *A.B.* is hereby required and enjoined faithfully and truly to
execute his said office.

Dated the _____ day of _____, 19 ____
(To be signed by the Chairman and two Councillors)

No. 2—Notice to Person of his having been Appointed
Waywarden

Notice to
Way-
warden.
Section 71.

Take notice, that at a meeting of the Parish Council for the
parish of _____ held in the said parish on the _____
day of _____ you were appointed one of the Way-
wardens for the _____ district of that parish, and you are
faithfully, and truly to execute the office of Waywarden according to
law.

Dated the _____ day of _____, 19 ____
(To be signed by the Chairman and two Councillors)

No. 3—Notice from Waywarden or Superintendent to
Remove Nuisance

Notice to
remove
nuisances.
Section 71.

In pursuance of the Parochial Roads Act.
I, *A.B.*, of, etc., _____ one of the Waywardens (or
Superintendent, or Assistant Superintendent *as the case may be*), of
the parish of _____ do hereby give you notice
forthwith to (*stating the nuisance complained of, and requiring its
removal*), on a certain part of the Queen's highway lying between
_____ and _____ in the
_____ district of the said parish, to the obstruction
of the said highway.

Dated the _____ day of _____, 19 ____
To *C.D.*, of _____ *A.B.*, Waywarden
(or Superintendent, *as the case may be*)

PAROCHIAL ROADS

Sections 5(1)
& 71.

No. 4—Form of Certificate

I hereby certify that Mr. _____ appears to me [from certificate or diploma (or certificates or diplomas or both) presented by him to me] or [after examination by me] to be possessed of sufficient technical knowledge and practice to be employed as a Superintendent of Parochial Roads and Works in any parish in this Island.