

# MADRAS RECORD OFFICE.

Government of Madras.

*Judicial* DEPARTMENT.

|                   |                          |
|-------------------|--------------------------|
| G.O. No. 627      | Press<br><del>Mis.</del> |
| 191-192           |                          |
| Dated 26. 4. 1918 | 5/6                      |

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,*  
*26th April 1865.*

No. 191. Read the following letter from G. A. BALLARD, Esq., Magistrate of Malabar, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Calicut, 7th April 1865, No. 43.

The Joint Magistrate, Tellicherry, has referred to me the question as to how cases of trespass, and damage to crops, by elephants, should be dealt with, as no mention is made of elephants in Act III of 1857.

2. I am not aware of any ruling bearing on the question, but cases of the nature adverted to would appear, by Mr. Garstin's letter,\* herewith submitted, to have been of frequent occurrence lately in Chavasherry, in North Malabar, and may well occur in other parts of the District, in which cultivation is extending, whilst elephants are much used in timber operations.

I request, therefore, that steps may be taken to have the necessary provision made in the Act, in reference to such cases.

From J. H. GARSTIN, Esq., Acting Joint Magistrate of Malabar, to G. A. BALLARD, Esq., Magistrate of Malabar; dated Tellicherry, 17th March 1865, No. 36.

The Chavasherry Sub-Magistrate reports that several cases have lately come before him of trespass and damage to crops, by elephants, the private property of persons living in the neighbourhood, and wants to know what fine is to be levied on them, and what expense can be incurred for feeding them, as no provision is made for elephants in Act III of 1857.

2. The custom is for persons possessing elephants to send them to the jungles during the dry weather, where they are hobbled, and allowed to roam about, and they often do great damage to plantain gardens and other cultivation.

3. I request you will inform me if there are any rules as to the mode of dealing with trespassing elephants, and, if not, that you will bring the matter to the notice of Government, with a view to having the omission in the cattle trespass Act remedied.

No. 192. ORDER THEREON, 26th April 1865, No. 627.

The Governor in Council observes that trespasses by elephants occur at most in one or two districts only, and does not consider, from what is represented in the foregoing letter, that there is any necessity for taking legislative action in the matter. Parties aggrieved can look to the Civil Courts for their remedy, but His Excellency in Council desires that it be suggested to the Joint Magistrate at Tellicherry to deal with the owners, or the persons in charge, of the elephants allowed to roam at large, under Sections 268 and 290 of the Penal Code; the practice of letting animals of this class loose appearing to "cause annoyance to the public in general," who possess plantain gardens and other cultivation.

(True Extract).

*Chief Secretary.*

To the Magistrate of Malabar.

„ Inspector General of Police.

Ed. J. H. Burns.

Indian Department

Mr. A. C. (per-ambled)

Mr. Marshall Malabar

Policy of 1888

via Lord's in report

It is necessary

to look for elephants

in probably only one

district. Parties approved may

take this remedy at law

If there are Elephants used by parties getting timber then parties are usually answerable for the damage done & the law is the only remedy

From what is stated at the close of para 2 of

PROCEEDINGS of the MADRAS GOVERNMENT.

Read Letter from the Magistrate of Malabar — Inter 7 April 65 N<sup>o</sup> 43.

Order — 26 April 1865 N<sup>o</sup> 627.

The Governor in Council observes that trespasses by Elephants occur at most in one or two districts only, & does not consider from what is represented in the foregoing letter that there is any necessity for taking legislative action in the matter.

Parties aggrieved can look to the civil

The Acting Secy. Magistrate, the trespasses by the elephants mentioned, seem to amount to what may, I think, fairly be termed a public nuisance — they are causing annoyance to the people in general who have plantain gardens & other cultivation. See Section 268 S. P. Code. If then, the circumstances of the trespasses are such as to constitute a public nuisance, the Magistrate can proceed against the owners of the elephants & punish them under Section 290. At all events, I think the Magistrate should have been made of action. If it happens <sup>unintentionally</sup> ~~unintentionally~~ the revision of the revision court, either on an appeal by the parties affected, or otherwise, the Magistrate should be empowered without this special legislation for the case, and one case is disposed of will be able to bring the other elephant owners to their senses. If it be deemed inadvisable to suggest the adoption of this measure, nothing remains but to refer the persons injured to a civil court.

W.D.M.

JAS  
H.H.  
gpo

~~Sanctioned~~

civil courts for their  
remedy, but H. R. in  
Council desires that  
it be ~~now~~ suggested to  
the Joint Magistrate  
at Sericherry to  
deal with the owners  
or the persons in charge  
of the elephants allow-  
ed to roam at large  
under §§ 268 & 290

of the Penal Code -  
the practice of letting  
animals of this class  
loose, appearing to  
cause annoyance to  
the public in general  
who possess plantains  
garden & other cultiva-  
tion.

The Magistrate of Malabar.  
Inspector Genl. of Police.

Department.

No. 6000

PROCEEDINGS OF GOVERNMENT.

Dated 28

11/11/51