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MADRAS RECORD OFFICE

Government of Madras

Public Works

DEPARTMENT

G.O. No.	2212.	Press
B.P. No.		-Mis.-
Dated	29-7-	195- ce 75

Not to be folded or roughly handled

No. 825. Read the following letter from Lieutenant-Colonel J. H. M. SHAW-STEWART, R.E., Consulting Engineer for Railways, to Lieutenant-Colonel J. MULLINS, R.E., Officiating Secretary to Government, Public Works Department, dated Madras, 12th July 1875, No. 387:—

ADVERTING to the Proceedings of Government, under date the 20th April 1875, No. 1,113, I have the honor to forward a letter* from the Agent of the Madras

Railway upon the condition of the aloe fencing in the Malabar District. I have delayed the submission of this letter until I was able to report from personal inspection upon the condition of the fencing, and I can now state that, after careful examination, I could detect no spot at which even a Malabar cow could obtain access to the railway, either by breaking through or leaping over the line of aloes.

2. The length of railway within the Malabar District is about 90 miles. The portion to the east of Palghaut, about 16 miles in length, is fenced with aloes and stone walls. Between Palghaut and Wootapoliem, about 19 miles, the fence consists of aloes only; and between Wootapoliem and Beypore, about 55 miles, the aloe fence is supplemented by an iron wire fence, 3 feet in height, and furnished with five wires. The portion alluded to by Mr. Macgregor, in his letter No. 22, dated the 1st April 1875, lies between Palghaut and Wootapoliem, where, as mentioned above, the fence is formed of aloes only. At the time of my inspection there was not one gap in the line of aloes; the plants were healthy, strong, and large; and in most places there was a double row of plants. I do not think it possible that any cattle could at that time have passed over or through the fence.

3. There can, however, be no doubt that gaps are often made in these fences; and there can be equally little doubt that these gaps are made by the ryots, in order that their cattle may find easy access to the excellent pasture which is to be found within the railway fences. In the draft Rules laid before Government upon the 3rd September 1872, it was suggested that the head of every village through which the railway passes should be held responsible for the due protection of the railway fences from wilful injury within the limits of his village; but the suggestion did not meet with the approval of Government.

4. One great difficulty with which the Railway officials have to contend in prosecuting cases of cattle trespass under Sections 19 and 20 of Act XXV. of 1871, lies in the difference of opinion to be found among the District Magistracy as to what constitutes a fence "suitable for the exclusion of cattle." Mr. Macgregor condemns vegetable fencing as inefficient, and is of opinion that only stone walls and iron wire fencing can be deemed suitable for the exclusion of cattle. Another Magistrate, throughout whose district the railway is furnished with an excellent wire fence, condemns it as inefficient; and writes of it that "it is the owners of the animals and not the Railway Company that have the right to complain" when cattle are run over. Under such circumstances it is in many cases extremely difficult for the Railway officials to secure convictions in cases of cattle trespass. They have gone to the expense of providing fences which have been passed by the Consulting Engineer as efficient and suitable for the exclusion of cattle; but they find that the Magistrates refuse to recognize the Consulting Engineer's opinion, and set up varying

*Proceedings of the Madras Government, Public Works Department,
29th July 1875.*

standards in different parts of the Presidency as to what constitutes an efficient fence. It was with a view to this difficulty I recommended, in the draft Rules above alluded to, that one of the Magistracy through which the railway passes should inspect the fences in company with an officer of this department, in order to decide whether the fences fulfil the conditions laid down by Government as suitable for the exclusion of cattle. The recommendation did not, however, meet with approval.

5. My experience of railways in this part of India entitles me to express an opinion upon this subject with some confidence; and I entertain no doubt that, upon the railways in this Presidency, cattle trespass seldom arises from animals getting over or through the existing fences, whether these consist of stone walls, iron wire, or vegetable hedges. As a rule, cases of cattle trespass are caused either by the animals being wilfully driven on to the line for grazing purposes, or by their straying through gates left open by the negligence of the villagers. The former offence is punishable, under Section 20 of Act XXV. of 1871, by a fine of Rupees 50; and, under Section 23 of Act XVIII. of 1854, a person convicted of omitting to shut and fasten an accommodation gate is liable to a similar penalty; in addition to which the owner of the cattle found trespassing is liable to a fine of Rupees 10 under Section 19 of Act XXV. of 1871. But these Sections can be enforced only in the case of railways provided with fences suitable for the exclusion of cattle; and when Magistrates in different parts of the Presidency set up their own varying standards of what constitutes an efficient fence, and refuse to recognize the opinion of the officers appointed by Government to inspect the railway fences, it may be easily seen that the difficulty likely to be experienced by the Railway officials in securing convictions is by no means light. Taking into consideration the risk of serious danger to the public, and of great loss to the Railway Companies, involved by cattle trespass, I trust that some method may commend itself to Government, both for protecting the railway fences from wilful injury, and for securing, on the part of the Magistracy, a uniform interpretation as to what constitutes a fence "suitable for the exclusion of cattle."

6. With reference to the Order of Government, No. 1,114, dated the 20th April 1875, I have to observe that, of the seven cattle accidents alluded to as having occurred during the quarter ended 31st March upon 40 miles of the Madras Railway within the limits of the Malabar District, one happened* to the east of Palghaut, and two † between Wootapoliem and Beypore. The remaining four cases occurred between Palghaut and Wootapoliem, on the portion of line alluded to by Mr. Macgregor.

* Dated 14th February.

† " 2nd March.

" 14th do.

From R. B. ELWIN, Esq., Agent and Manager of the Madras Railway Company, to Lieut.-Colonel J. H. M. SHAW-STEWART, R.E., Consulting Engineer for Railways, dated Madras, 4th June 1875, No. 597.

With reference to your letter of the 13th ultimo, No. 543, and to the Proceedings of Government, No. 1,113, dated the 20th April 1875, I have the honor to inform you that the Chief Engineer has written to me as follows:—

"The Resident Engineer, 4th Division, South-west Line, reports that in some places between Palghaut and Wootapoliem there can be no doubt that the aloe fence is not in so good condition as could be desired, but at the same time he states that the gaps noticed by the Head

*Proceedings of the Madras Government, Public Works Department,
29th July 1875.*

Assistant Magistrate were made by the ryots to enable them to drive their cattle on to the line for the sake of the good pasture to be found on the railway slopes.

"A gang of men is kept constantly at work for the purpose of keeping the fences in good order, and watchmen are heavily fined when gaps in the fencing are found on their lengths.

"I cannot agree with Mr. Macgregor when he states that 'a crying injury is daily inflicted on the agricultural community who are unfortunate enough to live near the railway so long as this imperfect form of fence is continued.'

"It appears to me that the 'crying injury' is to the Railway Company, whose efforts to maintain an efficient fence are rendered futile by the mischievous action of the ryots."

2. I have only to add that in cases of cattle trespass, Magistrates have recently been most particular in requiring evidence as to the efficient state of the fences before they convict, and with that object they now decline to accept the testimony of the line watchmen and insist upon the attendance of the Inspectors or their Assistants.

No. 826.

ORDER THEREON, 29th July 1875, No. 2,212.

RAILWAY, No. 82.

THE Honorable the Governor in Council is not disposed to sanction a modification of the Rules which were approved in G. O., No. 970, dated 28th March 1873, for the provision and maintenance of railway fences, by the adoption of the provisions suggested by the Consulting Engineer. The preservation of railway fences from injury will, in the opinion of the Governor in Council, be best secured by frequent periodical inspections and reports on their condition by the Railway employés. It is presumed that departmental rules on the subject exist; but they should be stringent in their nature and rigidly enforced. The Government will be glad to be furnished with a copy of any rules which may be in operation. Accommodation gates at which gatekeepers are not stationed should be so hung as to be self-closing; and the use of cow-catchers will reduce the chance of serious accident to a minimum.

(True Extract.)

Major, R.E.,

Offg. Joint Secretary to Government.

To the Consulting Engineer for Railways.
" Judicial Department.

Exd. S. T. Austin.
Spare Copies

Railway Department.

CONSULTING ENGINEER'S OFFICE.

No. 387 Madras 12 July 1875

From

LIEUT. COLONEL J. H. M. SHAW STEWART, R.E.,

Consulting Engineer for Railways,

To Lt. Col. J. Mullins R.E.

~~Colonel C. W. WALKER, R.E.,~~

Offg. Secretary to Government,

Public Works Department,

Fort Saint George.

SIR,

Adverting to the Proceedings of Government under date the 20 April 1875, No 1113, I have the honour to forward a letter from the Agent of the Madras Railway upon the condition of the above fencing in the Malabar District. I have delayed the submission of this letter until I am able to report from personal inspection upon the condition of the fencing, and I can now state that, after careful examination, I could detect no spot at which

* No 597
4 June 1875

Malabar cow could obtain access to the railway, either by breaking through or leaping over the line of aloes.

2. The length of railway within the Malabar District is about 90 miles. The portion to the east of Palghat, about 16 miles in length, is fenced with aloes and stone walls. Between Palghat and Wotapolliem, about 19 miles, the fence consists of aloes only; and between Wotapolliem and Beypore, about 55 miles, the aloe fence is supplemented by an iron wire fence, 5 feet in height, and furnished with five wires. The portion alluded to by Mr. Macgregor, in his letter No 22 dated the 1st April 1875, lies between Palghat and Wotapolliem, where, as mentioned

mentioned above, the fence is formed of aloes only. At the time of my inspection there was not one gap in the line of aloes; the plants were healthy, strong, and large; and in most places there was a double row of plants. I do not think it possible that any cattle could at that time have passed over or through the fence.

3. There can, however, be no doubt that gaps are often made in these fences; and there can be equally little doubt that these gaps are made by the ryots, in order that their cattle may find easy access to the excellent pasture which is to be found within the Railway fences. In the draft rules laid before Government upon

Pro. of C.
Ind. Dept.
19 Sept 72
No 1246.

upon the 3 September 1872, it was suggested that the head of every village through which the railway passes should be held responsible for the due protection of the railway fences from wilful injury within the limits of his village: but the suggestion did not meet with the approval of Government.

4. One great difficulty with which the Railway officials have to contend in prosecuting cases of cattle trespass under sections 19 and 20 of Act XXV of 1871 lies in the difference of opinion to be found among the District Magistrates as to what constitutes a fence "suitable for the exclusion of cattle." Mr. Macgregor - condemns vegetable fencing as inefficient, and is of opinion that only stone

stone walls and iron wire fencing can be deemed suitable for the exclusion of cattle. Another Magistrate, through whose district the railway is furnished with an excellent wire fence, condemns it as inefficient; and writes of it that "it is the owners of the animals and not the Railway Company that have the right to complain" when cattle are run over. Under such circumstances it is in many cases extremely difficult for the Railway officials to secure convictions in cases of cattle trespass. They have gone to the expense of providing fences which have been passed by the Consulting Engineer as efficient and suitable for the exclusion of cattle; but they find that the Magistrates refuse to recognise the Consulting

Cons. does not
make him
in charge of the
administration

Consulting Engineer's opinion, and
set up varying standards in different
parts of the Presidency as to what
constitutes an efficient fence. It was
with a view to this difficulty I
recommended, in the draft rules
above alluded to, that one of the
Magistries through which the railway
passes should inspect the fences in
company with an officer of this Depart-
ment, in order to decide whether the
fences fulfil the conditions laid down
by Government as suitable for the ex-
clusion of cattle. The recommendation
has not however met with ap-
proval.

5. My experience of rail-
ways in this part of India entitles
me to express an opinion upon this
subject

subject with some confidence; and I
entertain no doubt that, upon the rail-
ways in this Presidency, cattle tres-
pass seldom arises from animals getting
over or through the existing fences, -
whether these consist of stone walls,
iron wire, or vegetable hedges. As a
rule, cases of cattle trespass are caused
either by the animals being wilfully
driven on to the line for grazing pur-
poses, or by their straying through
gates left open by the negligence of
the villagers. The former offence is
punishable, under section 20 of act XXV
of 1871, by a fine of Rs 50; and, under
section 23 of act XVIII of 1854, a person
convicted of omitting to shut and
fasten an accommodation gate is
liable to a similar penalty; in
addition

(addition to which the owner of the
cattle found trespassing is liable to a
fine of £10 under section 19 of Act
XXV of 1871. But these sections can
be enforced only in the case of railways
provided with fences suitable for the
exclusion of cattle; and when Magistrates
in different parts of the Presidency set
up their own varying standards of
what constitutes an efficient fence, and
refuse to recognise the opinion of the
officer appointed by Government to
inspect the railway fences, it may
be easily seen that the difficulty likely
to be experienced by the Railway officials
in securing carriage is by no means
light. Taking into consideration the
risk of serious danger to the public, and
of great loss to the Railway companies,
involved

involved by cattle trespass, I trust that
some method may commend itself
to Government, both for protecting the
Railway fences from wilful injury,
and for securing, on the part of the
Magistracy, a uniform interpretation
as to what constitutes a fence suitable
for the exclusion of cattle.

6. With reference to the
Order of Government No 1114, dated the
20 April 1875, I have to observe that,
of the seven cattle accidents alluded to
as having occurred during the quarter
ended 31 March upon forty miles of
the Madras Railway within the
limits of the Malabar District, one
happened to the east of Palghat,
and two between Mostapolliem and
Raysore. The remaining four cases
occurred

* dated
14 February

* dated
2 March
14 do.

occurred between Palghat and
 Mettapolliem, on the portion of line
 alluded to by Mr. Macgregor.

I have the honor to
 Sir

For Resident Supt
 Maintenance
 M.R.R.
 Chief Engineer for
 Railways

Recd
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 Recd 29.7.75
 Recd 30.7.75
 Recd 31.7.75

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Admission to use of
 facilities of fencing
 along the line of the
 Mettapolliem Sub
 which the case of
 cattle trespass that
 have occurred there

No. 597

MADRAS RAILWAY.

AGENT AND MANAGERS OFFICE

Madras, 4 June 1875.

From Robert B. Elwin Esqr
 Agent and Manager. M. R. Comp.

To Lieut Colonel J. H. M. Shaw Esqr
 Consulting Engineer for Railways.

Sir,

With reference to your letter
 of the 13th ultimo N^o 543, and to the
 Proceedings of Government N^o 1113. dated
 the 20th April 1875 I have the honor
 to inform you that the Chief Engineer
 has written to me as follows:

"The Resident Engineer to District
 South West Line reports that in some
 places between Palghat and Mettapolliem
 there can be no doubt that the aloe
 fence is not in so good condition as
 could be desired but at the same time
 he states that the gaps noticed by the
 Head Assistant Magistrate were
 made by the Ryots to enable them
 to drive their cattle on to the line
 for the sake of the good pasture
 to be found on the Railway slopes.
 A gang of men is kept constant

" at work for the purpose of keeping the fence
" in good order, and watchmen are heavily
" fined when gaps in the fencing are
" found on their lengths.

" I cannot agree with Mr MacGregor
" when he states that 'a crying injury is
" daily inflicted on the Agricultural
" Community who are unfortunate enough
" to live near the Railway so long as this
" imperfect form of fence is continued
" It appears to me that the crying injury
" is to the Railway Company whose efforts
" to maintain an efficient fence are
" rendered futile by the mischievous
" action of the Ryots."

2. I have only to add that in cases
of cattle trespass Magistrates have recently
been most particular in requiring evidence
as to the efficient state of the fences
before they convict, and with that object
they now decline to accept the testimony of
the line watchmen and insist upon the
attendance of the Inspectors or their
Assistants

I have the honour to be
Your most obedient ^{son} Servant.
W. J. White
Agent and Manager

Public Works Dept.
No 2212

Proceedings of the Madras Government
Under date the 29 July 1875
Read the following

From
The Cons. Eng. for } (H.C. No 387 of 12th July 1875)
Railways }
Print 1 / No 6

The Honble the
Governor in Council is
not disposed to sanction
a modification of the
rules which were ap-
proved in G.O. No 970
dated 28th March 1873
for the provision and
maintenance of Railway
fences, by the adoption
of the provisions suggested
by

314
MADRAS RAILWAY.

From
The Agent and Manager.

To
The Consulting Engineer
for Railways.

Dated 4th June 1875
H. J. S. }
No 597.

Referring to Cons. Eng.
letter No 543 having
reference to cattle
fences in the Chitalar
District.
M. 4520/75

by the Consulting Engineer. The preservation of Railway fences from injury will in the opinion of the Governor in Council be best secured by frequent periodical inspection and reports on their condition by the Railway employees. It is presumed that departmental rules on the subject exist, but they should be stringent in their nature and rigidly enforced. The Govt. will be glad to be furnished with a copy of any rules which may be in operation. Accommodation gates at

at which gate Keepers are not stationed should be so hung as to be self closing ~~unless~~ ~~purposefully kept open~~. And the use of cow catchers will reduce the chance of serious accident to a minimum.

12/10
R. Comg Engr for Rys 38
7 Judd Dept 3
SC Draft - 17-8-75

Public Works Dept.

Letter from the Chief Engr. for
Railways No. 387 of 12th July 1875

Circulated for orders.

This report has
been elicited by the
Complaint made by
G.O. 1113 of 20th April 1875. the Acting Head of the
Magistrate of Malabar
as to the inefficiency
of the Railway fences,
formed of aloes, between
Palghat and Wotta-
pollim. It was stated
that there existed no
less than 27 gaps in the
fence
I am disposed to leave matters
as they are. The number of
accidents, having in view all
the circumstances of the country
are not very numerous. I think
we may leave the Duke to work
longer before we attempt to
harm villagers or disturb the
the Ministry - All
I am, but I think the string

fence sufficiently large to admit of the passage of cows. On the other hand the Deputy Consulting Engineer who inspected the line not quite two months previously declared the fencing throughout, between Madras and Baypoor to be efficient; and the Comd. Engineer who inspected the line apparently in July states that after careful examination he could detect no spot at which even a Malabar cow could obtain access to the Railway, either by

rules at the present time for frequent & continual inspection of the fences and report on their condition by the District Engineer. I presume something of the kind is required of the line. Mr. Engr. might be able to see that the rules can be improved.

I presume that all accommodations for cattle are not satisfactory as so many of the self closing rails are supposed to be kept open.

In order to get this matter settled the Comd. Engr. has been in a mind that the Railways is legally liable for damage done to cattle & fences. 26/7

about provide means of passage thru the line in direct sight of way. Gates & crossings to both gates & crossings are a concession to them - at the same time the Comd. Engr. has been recommended to have some accommodation for cattle. The Comd. Engr. has been asked primarily for the Comd. Engr. to see that every

The railway authorities have undertaken to have watermen to carry two or three miles of these men do their duty & deliberate mischief to the Comd. Engr. as well as a few hours of the Comd. Engr. committee. Sent to the Comd. Engr. for the real remedy in the use of cowpanders.

by breaking through or leaping over the line of aloes. This seems to point to the correctness of the conclusion at which the Comd. Engineer has arrived, viz that gaps are made in the Railway fencing by the villagers in order that their cattle may obtain ready access to the pasturage which is to be found within the Railway fences.

In order to provide a remedy for acts of this kind the Comd. Engr. suggested the fixing of responsibility on

on heads of villages.
for injury to fences.

It will be seen however
from the original notes
of members of Govt.
on the rules approved
in G.O. No 970 dated
28th March 1873, that
this course was consider-
ed objectionable. The
proposal to have in-
spections of fences con-
ducted in company
with one of the Magistrate
of each district was also
negatived. The Consgr.
Engineer now indicates
the evils which he con-
siders are due to the
absence

absence of these provisions,
and requests that the
Govt. may devise some
method for protecting
Railway fences from
wilful injury, and for
securing on the part
of the Magistracy a
uniform interpretation
of what constitutes
a fence "suitable for
the exclusion of cattle."

For aet. Major R.C.

Order and
23rd July 1875

Offg. J. Secy. to Govt.
P.M.D.

W. 23/7

L. atty.