

1906.  
GOVERNMENT  
OF  
EASTERN BENGAL & ASSAM.

JUDICIAL DEPARTMENT.

JUDICIAL—A.

May 1906.

Nos. 39-45.

Proposed extension of Section 26 of Cattle Trespass Act, 1 of 1891, to certain tract of the Garo Hills district.

# REFERENCES TO FORMER CASES.

Department, date, and Nos., or File No. and year.	Brief Title of File.
1. Home, A, Jan. 1892, Nos. 1-16.	Amendments made to Cattle Trespass Act, I of 1871, by Act of 1891.
2. Ditto, Aug. 1894, Nos. 76-83.	Pound-fees in cases of cattle trespass within the civil station and cantonment of Shillong.
3. Ditto, Feb. 1895, Nos. 121-129.	Cattle trespass fines in Cachar.
4. Ditto, Sep. 1904, Nos. 159-172.	Extension of Cattle Trespass Act to the Assam-Bengal Railway.

I-78.

# REFERENCES TO LATER CASES.

Department, date, and Nos.	Brief Title of File.
Judl R Augst/06 = 9-12 St A Dec 08 = 7/12 1117 Leg: A Jan'y/10 = 1-5 (2-27) 158.	

(To be continued on back, if necessary.)

# PAPERS OTHER THAN PROCEEDINGS.

I.—Printed.

Notes and orders.

II.—Not printed.

Nil.

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## NOTES.

JUDICIAL—A, MAY 1906.

Nos. 39-45.

### Proposed extension of Section 26 of Cattle Trespass Act, I of 1891, to certain tract of the Garo Hills district.

FROM THE DEPUTY COMMISSIONER, GARO HILLS, No. 368R., DATED THE 8TH NOVEMBER 1905.

Says that when high floods occur, the graziers of Goalpara drive their buffaloes to the higher ground of the Garo Hills district, which cause much damage to the cultivation, and enquires if he can legally prohibit offenders from bringing their cattle into his district and punish disobedience of his orders.

Under-Secretary,

Perhaps the buffaloes which are thus left straying without a sufficient number of attendants should be impounded, and besides levying fine according to the scale laid down in section 12 of the

\* Page 8 of Home, A, Jan. 1892, Nos. 1-16.

Rs. 10. Under the second paragraph of section 26 of this Act, the Local Government may, by issue

† Page 3 of Home, A, Aug. 1894, Nos. 76-83.

† Page 3 of Home, A, Feb. 1895, Nos. 121-129.

Cattle Trespass Act, their owners or keepers may be prosecuted under section 26 of the said Act and the Chief Commissioner's Notification No. 3081,\* dated the 22nd October 1891, and punished with a fine of Rs. 50 for damage done to land or crop, etc., within any local area. The Chief Commissioner of Assam, in his Notifications No. 3258J.,† dated the 31st May 1894, and No. 862J.,‡ dated the 20th February 1895, has exercised this power in respect of civil station and cantonment of Shillong and the sadr and the Hailakandi subdivision of the Cachar district, and also increased the rates of pound fees in respect of the civil station and cantonment of Shillong to double the amount prescribed in section 12 of the Cattle Trespass Act (*vide* Notification No. 3257J., dated the 31st May 1894).

The Deputy Commissioner, Garo Hills, enquires if he can legally prohibit known offenders of the Goalpara district from bringing their cattle into his district and punish them for disobedience of orders.

D. K. Dhar—16th November 1905.

The owners of cattle of the Goalpara district perhaps send their cattle to the Garo Hills after obtaining permits from the Forest Officer, *vide* Rule 10 of the rules relating to unclassified State forests in the Garo Hills, and, as such this should be dealt with in the Financial Department, who deal with the subject "Forests."

A. K. B.—18th November 1905.

Secretary,

The Deputy Commissioner says nothing about Forest Department permits for grazing. We may suppose that if such permits were necessary, he would have approached the Forest Department direct.

As to preventing Goalpara cattle owners from bringing over their cattle for grazing, and punishing them in case of disregard of the prohibition, I do not see how that could be done.

Perhaps the best remedy would be to extend the second section of paragraph 26 of Act I of 1871 to the local area particularly affected in the Garo Hills as was done in the case of the sadr and Hailakandi subdivisions of Cachar. We may ask the Deputy Commissioner if such an extension would

\* Omit.—L. J. K.

meet the [necessities of the]\* case, and if so, to report the local area to which the section should be extended.

22nd November 1905.

G. MILNE.

As proposed.

22nd November 1905.

L. J. KERSHAW.

[To the Deputy Commissioner, Garo Hills, No. 1439J., dated the 29th November 1905.]

FROM THE DEPUTY COMMISSIONER, GARO HILLS, No. 144J., DATED THE 7TH DECEMBER 1905.

Submits his proposal for the extension of paragraph 2 of section 26 of the Cattle Trespass Act to certain areas in the Garo Hills district.

Under-Secretary, Judicial Department,

The Cattle Trespass Act, I of 1871, seems to be in force in the Garo Hills district. Kindly see the draft of the preliminary notification put up in accordance with the precedent in the case of the Cachar district. Perhaps the reference should only be to buffaloes, and not to cattle generally. The rate of fees laid down in section 12 for every head of cattle should perhaps be doubled as well.

Mahendra—16th December 1905.



Secretary,

Buffaloes are complained of. It will be sufficient to extend the section (26 of the Act), as proposed in the draft, without doubling the penalties under section 12. If this should be found necessary, it may be done upon intimation by the Deputy Commissioner that the measure now taken has proved ineffective.

2. I do not find Bahadurkata Hat on the map. The Rongai river flows into the Jinjiram in the north-west corner of the district. For consideration if the boundaries given are sufficiently definite.

22nd December 1905.

G. MILNE.

His Honour,

The notification may issue, although the boundaries are somewhat indefinite.

22nd December 1905.

L. J. KERSHAW.

I see (though no mention of this is made in the notes) that the extension of section 26 to the Garo Hills was recommended in 1891.

2. I doubt whether this section was intended to be applied to a large area of agricultural country. In the past its use has generally been limited to stations and cantonments. But we have recently extended it to some stretches of railway in the North Cachar Hills. This case should be put up, as I think that the notes deal with the general question of policy.

3. Before extending section 26 we should certainly consult the Conservator, sending him copies of the correspondence.

26th December 1905.

J. B. FULLER.

[To the Conservator of Forests, Eastern Bengal and Assam, No. 688J., dated the 17th January 1906.]

FROM THE CONSERVATOR OF FORESTS, EASTERN BENGAL AND ASSAM, NO. 75A., DATED THE 9TH FEBRUARY 1906.

Says that he sees no objection to the extension of paragraph 2 of section 26 of the Cattle Trespass Act to the tract of the Garo Hills suggested by the Deputy Commissioner.

Secretary,

The North Cachar Hills case is put up. There is no discussion in the notes on the general principle. The speeches on the Amending Act with the Statement of Objects and Reasons make it clear that the intention of the legis-

lature was that the amendment should apply not merely to cantonments or municipalities, but to ordinary agricultural areas.

The Conservator of Forests, who was consulted, has no objection to the proposal.

26th February 1906.

G. MILNE.

His Honour,

The amendment of section 26 was first proposed in consideration of the special needs of suburban and planting districts (*vide* speech introducing the Bill, paragraph 1), but enquiries showed that there was an equal need of amendment in many rural areas, *vide* speech of the Hon'ble Mr. Hutchins on January, 23rd 1891.

In the Statement of Objects and Reasons there is no reference to suburban areas.

I find no discussion of general principles in the file about extension of the provisions to North Cachar, or in any of the other files. Apparently the present case is a proper one for the application of paragraph 26 (2) of the Act.

3. The Conservator has no objection to the proposal.

4. The preliminary notification may now issue.

27th February 1906.

J. E. WEBSTER.

I agree.

3rd March 1906.

J. B. FULLER.

[Notification No. 2564J., dated the 8th March 1906, published in the *Eastern Bengal and Assam Gazette*, dated the 10th March 1906.]

[Memorandum to the Deputy Commissioner, Garo Hills, No. 2957J., dated the 17th March 1906.]

GOVERNMENT OF EASTERN BENGAL AND

ASSAM.

JUDICIAL DEPARTMENT.

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JUDICIAL—A.

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MAY 1906.

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Proposed extension of Section 26 of the Cattle Trespass Act, 1 of 1891, to certain tract of the Garo Hills district.

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No. 39.

No. 368R., dated Tura, the 8th November 1905.

From—Captain A. PLAYFAIR, I.A., Deputy Commissioner, Garo Hills,

To—The Chief Secretary to the Government of Eastern Bengal and Assam.

In continuation of my letter No. 367R., dated the 8th November 1905, on the subject of remission of revenue in certain plains villages of No. 6 mauza, I have the honour to bring another matter to your notice in the same connection.

I refer to the ruthless manner in which the owners of buffaloes allow their animals to graze in the vicinity of cultivation. When high floods occur, as in the present year, the graziers of Goalpara are in the habit of driving their animals into this district to the higher ground. They never have a sufficient number of herdsmen, and the result is that the animals stray into the fields and do much damage. They are not easy animals to manage, and it is not always possible to impound them. During my recent tour and before I started on it, numerous complaints were made to me about the Goalpara buffalo owners.

In one case I myself saw buffaloes in a field of *sali*, and in another place, Haripur village, I found a herd of no less than 210 animals (these were counted; there probably were more in the jungle) under the care of one single herdsman.

I can deal with owners in my own district and have not hesitated to award liberal compensation, but it becomes a much more difficult thing when they live in another district, especially when, as in the case of the Haripur village, the people are all in the debt of one of the principal offenders.

Could I legally prohibit known offenders from bringing their cattle into the district another year and punish disobedience of my order?

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No. 40.

No. 1439J., dated Shillong, the 29th November 1905.

From—The Under-Secretary to the Government of Eastern Bengal and Assam, Judicial Department,

To—The Deputy Commissioner, Garo Hills,

With reference to your letter No. 368R., dated the 8th November 1905, I am directed to say that probably the best remedy for the nuisance complained of would be to extend the enhanced penalty under the second paragraph of section 26 of the Cattle Trespass Act, 1 of 1871, to the local area particularly affected in your district. I am to enquire if such an extension would meet the case, and, if so, to request that you will be good enough to report the local area to which the section should be extended.

J. 41-44. Extension of Section 26 of the Cattle Trespass Act, I of 1891, to the Garo Hills.

No. 41.

No. 144J., dated Tura, the 7th December 1905.

From—Captain A. PLAYFAIR, I.A., Deputy Commissioner, Garo Hills,

To—The Under-Secretary to the Government of Eastern Bengal and Assam.

In reply to your letter No. 1439J., dated the 29th November 1905, I have the honour to state that the suggestion contained therein to extend the enhanced penalty under the second paragraph of section 26 of the Cattle Trespass Act should meet the case which I referred to you in my letter No. 368R., dated the 8th November 1905. The damage done by buffaloes has often been assessed at much more than the maximum fine of Rs. 50, but it will be open to the complainants to sue the offenders in the Civil Courts.

The tract to which the section should be extended is defined below :—

- (1) The plains portion of the Garo Hills district from the Rongai river in the north to Bahadurkata Hat in the south.
- (2) A strip of land two miles broad in the low outlying hills which skirt the above defined plains portion of the Garo Hills district.

The reason I include the strip of hills is that the Garos have, in several cases, suffered as much as the plains people and have had their rice and cotton growing on the low hills much damaged by the animals.

No. 42.

No. 688J., dated Shillong, the 17th January 1906.

From—The Under-Secretary to the Government of Eastern Bengal and Assam, Judicial Department,

To—The Conservator of Forests, Eastern Bengal and Assam.

I am directed to forward a copy of the correspondence noted in the margin, and to

1. Deputy Commissioner of Garo Hills' No. 368J., dated the 8th November 1905.
2. This office No. 1439J., dated the 29th November 1905.
3. Deputy Commissioner of Garo Hills' No. 144J., dated the 7th December 1905.

request that you will be good enough to favour the Lieutenant-Governor with your opinion on the proposed extension of section 26 of the Cattle Trespass Act, I

of 1891, to the specified tract in the Garo Hills.

2. An early reply is requested.

No. 43.

No. 75A., dated Camp Garubhasa, the 9th February 1906.

From—E. S. CARR, Esq., Conservator of Forests, Eastern Bengal and Assam,

To—The Judicial Secretary to the Government of Eastern Bengal and Assam.

In reply to your No. 688J., dated the 17th January 1906, I have the honour to state that I see no objection to the extension of paragraph 2 of section 26 of the Cattle Trespass Act to the tract of the Garo Hills suggested by Major Playfair, Deputy Commissioner.

No. 44.

No. 2564J., dated Shillong, the 8th March 1906.

Notification by—The Government of Eastern Bengal and Assam, Judicial and General Department.

It is hereby notified, for general information, that, in exercise of the power conferred by the second paragraph of section 26 of the Cattle Trespass Act, I of 1871 (as amended by section 8 of Act I of 1891), the Lieutenant-Governor proposes to direct, unless good reasons are shown to the contrary within three months from the date of the publication of this Notification, that, with respect to the following areas of the district of the Garo Hills, the first paragraph of the said section 26 shall be read as if it had reference also to buffaloes and as if the words "fifty rupees" were substituted for the words "ten rupees" :—

- (1) The plains portion of the Garo Hills district from the Rongai river in the north to Bahadurkata Hat in the south.
- (2) A strip of land two miles broad in the low outlying hills which skirt the above defined plains portion of the Garo Hills district.

MAY 1906.

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Extension of Section 26 of the Cattle Trespass Act, I of 1891, to the Garo Hills.

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J. 45

No. 45.

No. 2957J., dated Shillong, the 17th March 1906.

Memo. by—The Secretary to the Government of Eastern Bengal and Assam, Judicial Department.

Copy of Notification No. 2564J., dated the 8th March 1906, forwarded to the Deputy Commissioner, Garo Hills, for information, with reference to the correspondence ending with his letter No. 144J., dated the 7th December 1905. It is requested that he will be so good as to report, for the consideration of the Government, any objections that may be received against the proposal contained in the notification.