

Sec 199. "The company shall erect and maintain upon the railway fences, gates and cattleguards, as follows: "(a) Fences of a minimum height of four feet six inches, on each side of the railway. (b) Swing gates in such fences, of the minimum height aforesaid, with proper hinges and fastenings, at farm crossings; provided that sliding or hurdle gates, already constructed, may be maintained. (c) Cattleguards, on each side of the highway, at every highway crossing at rail-level by the railway. The railway fences at every such crossing shall be turned into the respective cattleguards on each side of the highway. 2. Such fences, gates and cattleguards shall be suitable and sufficient to prevent cattle and other animals from getting on the railway. 3. Whenever the railway passes through any locality in which the lands on either side of the railway are not improved or settled, and inclosed, the company shall not be required to erect and maintain such fences, gates and cattleguards unless the Board otherwise orders or directs."

There is little or no difference in substance between this and s. 194 of the Act of 1888. Sub-s. 3 of the latter section, making a company liable for damages caused by want of fences and cattleguards, was repealed by 53 Vict. c. 28 (see s. 237 (4) Act of 1903, post), and s. 196 is not in the present Act. It provided that while the fences and cattleguards are maintained the company should not be liable for such damages unless caused wilfully or negligently. The former Act did not fix the minimum height of fences. The provision in sub-s. (c) is 55 & 56 Vict. c. 27, s. 6, re-enacted.

Sec. 200. "The persons for whose use farm crossings are furnished shall keep the gates at each side of the railway closed when not in use; and no person, any of whose cattle are killed or injured by any train, owing to the non-observance of this section, shall have any right of action against any company in respect to the same being so killed or injured." Sec. 198 of the Act of 1888 was the same.

Sec. 201. "Every person who wilfully leaves any such gate open without some person being at or near it to prevent animals from passing through it on to the railway, or who takes down any part of a railway fence, or turns any horse, cattle or other animal, upon or within the inclosure of such railway (except for the purpose of, and while, taking the same across the railway in the manner pro-