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ORDINARY MS.

Public DEPARTMENT.
G.O., DATED 20/10/90
No. 703

When given for copying 18/10

[Despatch Abstract].

Bill to make better provision for the
protection of game and fish in certain
portions of the Madras Presidency.

READ AGAIN ORDER OF GOVERNMENT, DATED
18, No. , MISCELLANEOUS.

ENCLOSURES.

CURRENT No.

STATEMENT WITH DITTO.

ORDER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL (not paged).

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BACK PAPER, No.

FURTHER PAPER, No.

2193/91

St. Magdalen, Nilgiris.
Hony Secy, Nilgiri Game Assoc.

A A

Public C.No. 2893.
Govt. of (1890) Madras.
LEGISLATIVE.

Issued. 2/10/90.

Recd. 5/10/90. CHIEF SECRETARY Encl.

replied 10/10/90

G.O., 13th Sept. 1890, No. 33.

SEPTEMBER.

Bill to make better provision for the
protection of Game and Fish
in certain portions of the
Madras Presidency.

Approving the —, and directing that the Bill,
together with the Statement of Objects and
Reasons, be published in the Fort St. George
Gazette.

21
G.O. 20 Oct. 90 No. 703.

Recorded.

15 Oct

20B.
14/1*

To the Collector & Dist.
Magte. of Nilgiris.
Hony. Secy. Nil.
giri Game Assoc.

DEPT. OF
20 OCT 90
IN M.S.

W.O.

BACK PAPER, No.

OF 18

FURTHER PAPER, No.

124

OF 18

2193/91

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No. OF 1890.

A

BILL

TO

*Make better provision for the protection of
Game and Fish in certain portions of the
Madras Presidency.*

WHEREAS it is expedient to repeal Madras
Act II of 1879 and
Preamble. to make better pro-
vision for the protection of game and fish
within certain portions of the Madras
Presidency; It is hereby enacted as
follows:—

1. (1) This Act may be called "The
Madras Game and
Short title. Fish Preservation
Act, 1890."

(2) It extends in the first instance to
the local area the
Local extent. limits of which are
described in the schedule hereto annexed,
but the Governor in Council may, from
time to time, by notification in the *Fort
St. George Gazette*, extend this Act, in
whole or in part, to any other local area
within the said Presidency, and may from
time to time amend or cancel such notifi-
cation.

2. (1) On and from the day on which
this Act comes into
Repeal. force, Madras Act II
of 1879 shall be repealed.

(2) But all notifications issued, rules
made and licenses
Saving clause. granted under that
Act shall, so far as may be, be deemed to
have been issued, made and granted under
this Act.

3. In this Act the word "Game" means
antelope, ibex, jun-
Definition. gle-sheep; sambhur
and all other descriptions of deer, bison,
hares, jungle-fowl, spur-fowl, pea-fowl,
partridge, quail, snipe and woodcock and
shall include such other animals or birds

as the Governor in Council may by notification in the *Fort St. George Gazette* declare to be game.

4. Within any local area in which this Act is in force no person shall kill, capture or pursue game except under and in accordance with the conditions of a license granted under this Act.

Such license shall be in such form, shall be granted upon payment of such fee, and by such officer, and shall be subject to such conditions as the Governor in Council may from time to time prescribe.

5. (1) The Governor in Council may, from time to time, by notification in the *Fort St. George Gazette*, make rules for the regulation and control of fishing in any stream or lake within any local area in which this Act is in force, and may from time to time amend or cancel any rule so made.

(2) Rules under this section may, among other matters, prohibit or regulate the poisoning of the water, of any stream or lake, the placing or throwing of any explosive or deleterious substance therein, the use for the capture of fish of fixed engines and nets of a mesh below a certain size.

6. The Governor in Council may, from time to time, by notification in the *Fort St. George Gazette*—

(1) fix a season or seasons in every year during which it shall not be lawful for any person within any local area in which this Act is in force, to kill or capture, or attempt to kill or capture game or fish or any animal or bird which is or may be declared to be game or the females or young of any such animal or bird;

(2) prohibit altogether for any period not exceeding five years within any local area in which this Act is in force, the killing, or capture, of game or fish or of any animal or bird which is or may be declared to be game or the females or young of any such animal or bird;

And may from time to time amend or cancel such notification.

Provided that no such notification shall have effect until two months from the date of its first publication in the *Fort St. George Gazette*.

7. The Governor in Council may, from time to time, by notification in the *Fort St. George Gazette*, make rules regulating the sale of game and fish within any local area in which this Act is in force.

8. Any person who kills, captures or sells, or attempts to kill, capture or sell game or fish or does any other act in contravention of this Act or of any rules or notification under this Act, or in contravention of any condition contained in a license granted under this Act or under the rules made thereunder, shall be liable on conviction to fine not exceeding one hundred rupees.

9. When any person is convicted of an offence punishable under this Act, the convicting Court or Magistrate may direct that the whole or any portion of any game or fish killed or captured by such person and of all weapons, implements and dogs used in and for the purpose of aiding the commission of such offence shall be confiscated, and any license granted under this Act to such person may be cancelled by the officer who granted such license.

10. Any Forest officer and any other officer specially empowered by the Governor in Council in this behalf, may arrest without a warrant any person who commits in his view any offence punishable under this Act and who, on demand, refuses to give his name and address or gives a name and address which there is reason to believe is false.

The Governor in Council may delegate his power under this section to any subordinate revenue authority.

11. Subject to such rules as the Governor in Council may, from time to time, prescribe, all fees and fines levied, and sums realized by the sale of property confiscated, under this Act, shall be paid into the public treasury. But the convicting Court or Magistrate may award to any person or persons on whose information the conviction was obtained the whole or any portion, not exceeding one-half, of any fine imposed or of any sum realized as aforesaid.

12. Nothing in this Act shall be deemed to prevent any owner or occupier of land from killing, capturing, or pursuing within the limits of such land game doing damage to any crop growing thereon.

SCHEDULE.

(REFERRED TO IN SECTION 1 (2)).

Limits of the local area to which this Act in the first instance applies, viz. :—

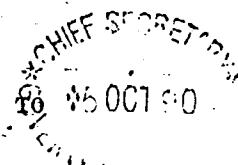
1. The south bank of the Bhavani river from Attipadi, in the valley of that name, to its junction with the Moyar river.
2. From that point the north bank of the Moyar river to its junction with the Kakanhalla river, on the Mysore-Nilgiri boundary, about four miles north of Tippukadu.
3. Thence the boundary of the South-east Wynaad division of the Nilgiri district to Nilgiri Peak.
4. From that point the western crest of the Nilgiri Hills to its termination below Sispara.
5. Thence along the northern, western and southern crests of the Silent Valley range to its southernmost point.
6. From that point to Attipadi.

Government of Fort St. George.

LEGISLATIVE DEPARTMENT.

A.

BILL



Make better provision for the protection of Game and Fish in certain portions of the Madras Presidency.

13TH SEPTEMBER 1890, No. 33, LEGISLATIVE.

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

Read—again :—

G.O., dated 21st February 1890, No. 139, Public.

ABSTRACT.—Transferring, with remarks, to the Legislative Department, certain papers relating to the amendment of the Nilgiris Game Act II of 1879.

Read—also the following papers :—

From C. F. MacCARTIE, Esq., Acting Collector of Nilgiris, to the Chief Secretary to Government, dated Ootacamund, 13th March 1890, No. 19.

As directed in Reference on No. 2118 of 1889, dated 3rd instant, I have the honor to submit a draft schedule embodying the changes in the local extent of the Act as proposed in the Draft Bill.

2. I take this opportunity of appending a few notes on the Draft Bill.

ENCLOSURES.

Schedule referred to in the Preamble.

The Nilgiri district shall, for the purpose of this Act, be held to be bounded by the north bank of the Bhavani river from Attipadi, in the Attipadi Valley, to the junction of the Moyar river.

The west and south banks of the Moyar river from its junction with the Bhavani up to a point on the boundary between the Nilgiris and Mysore territory, about 4 miles from Tippiakadu.

Then the Nilgiri district boundary on the north and west as recognized for local Revenue and Judicial administration, including the division known as the South-east Wynaad.

Then a line along the Sisupara ranges to Wallaghaut including the western crest of the Silent Valley (Malabar) range, and the entire tract known as the Silent Valley.

Then a line from the southern end of the above named range to the Bhavani river at Attipadi, in the valley of the same name.

NOTES ON THE DRAFT BILLS.

Preamble.

1. Omit "and sale" for reasons assigned in remarks on section 3.

Section 3.—(1) In order to make the proviso perfectly clear that animals or birds damaging crops can only be killed or captured within the limits of the private lands, I would add after "at any time" in lines 7 and 8 the words "within the limits of such land."

2. The words "or sell" in line 3 may be left out unless it is the intention of the Government to establish direct control over the sale of game. Animals, birds and fish killed or captured outside game limits may be brought here for sale, but as the section now stands, such vendors will require the Collector's license. Such interference by the Collector was never contemplated before, so far as I am aware; and I do not exactly know whether it is expressly intended now.

Pub 2295/120

Section 5.—(1) Lines 7 and 8, omit "or sell" for reasons given against section 3.

(2) I would suggest that the words whether with or without the license * * * of this Act should be left out altogether on the ground that allusion to shooting without a license may give rise to the misconception that shooting without license is anywhere permissible within the Game Act limits, and in this connection I would beg reference to my letter, No. 45, dated 5th July 1889, paragraphs 3 and 4, in which the necessity is urged of making licenses compulsory for shooting on *all lands* within the Game Act limits, in and out of close season or open season and for protected and unprotected animals and birds.

Section 6.—After "Act" in line 2, add "and of the rules issued as therein empowered."

Section 7.—Line 5, omit "or sale."

Section 9.—Line 1, words "any Government officer" should be more clearly defined by adding a proviso stating that the term "Government officer" referred to in the section includes all servants of Government employed in the Revenue, Police or Magisterial Departments as well as all members of the Game Association and its servants recognized and notified in the District Gazette by the Collector under the Orders of Government.

Section 10.—Add "and of any rules issued thereunder."

Section 12.—I would urge upon the Government to provide that fines, fees, &c., realized by prosecutions shall be paid to the Game Fund. The section as now drafted will prevent the payment of license fees to the Game Fund which is done now. Perhaps the continuance of the existing system can be secured by the rules to be framed under section 4. In that case, section 12 would prove to be in the way and would preclude absolutely any such transfer of the "fines and sums realized by the sale of forfeited property." To obviate such inconvenience I would add in line 3 after "treasury" the words "to credit of such body or association now existing or hereafter to be formed having for its object the preservation and development of game within the area defined in this Act as the Governor in Council may direct."

From the Hon. J. H. SPRING BRANSON, Advocate-General, to the Chief Secretary to Government, dated Madras, 1st April 1890.

In reply to reference on Nos. 13 and 14 of 1890, I have the honor to enclose my opinion on the Bill to provide for the protection of game and fish in the district of the Nilgiris, and to return the Bill, schedule and notes which were submitted to me.

[In the matter of the Bill to provide for the protection of Game and Fish in the Nilgiris.]

OPINION.

1. The term "Government officer" is not defined in the Bill, which should, I think, declare what those words mean and include.

2. Section 6 of Madras Act II of 1879 only permitted the "Government officer, or servant or policeman" to proceed under the section upon "producing his certificate of office," or when "wearing the prescribed distinctive dress or badge of his department." Section 9 of the Bill now under consideration omits this qualification. As the section now stands, the person addressed must accept the statement of his interrogator that he is a "Government officer," or decline to obey at his peril. The section should at least compel the said "officer" to prove his authority if that be challenged, even if it be deemed inexpedient to limit his power of interrogation to the time that he may be actually on duty or in uniform.

3. In section 9, for the words "there be any reason to doubt the accuracy of the name or address so given," I would substitute the words "he refuses to give his name and address, or gives a name and address which such officer has reason to believe to be false."

4. In the same section, for the words "may require such person to accompany him," &c., I would substitute the words "he may be required by such officer to accompany him," &c.; and for "such person" after the words "and in the case of his refusing to do so" would substitute "he."

5. I think that the punishment for refusal to obey the order given under section 9 should be provided for in the section itself, and that the person so refusing should not "be deemed to have committed an offence punishable under section 10," &c. If he be convicted under that section, then, upon proof of his commission of the offence mentioned in section 9, he should be punished in the way therein prescribed in addition to the punishment inflicted on him under section 10.

6. Is forfeiture of "weapons, implements, and dogs," under section 10, to be in addition to the fine, or only to the imprisonment in default of payment of that fine? As the section now stands, the meaning is not clear.

HIGH COURT,
31st March 1890.

(Signed) J. H. SPRING BRANSON,
Advocate-General.

From C. F. MacCARTIE, Esq., Acting Collector of Nilgiris, to the Chief Secretary to Government, dated Ootacamund, 30th April 1890, No. 28.

With reference to the Acting Assistant Secretary's memorandum, dated 25th instant, on register No. 14 of 1890, I have the honor to state that the Committee of the Nilgiri Game Association proposed at its meeting held on 20th June 1879, "that Government be moved to require all persons entering on Government land, for the purpose of shooting, to take out a license on payment of a fee of Rs. 15, such fees to be made over to the Association for the purpose of carrying out the provisions of the Act."

2. The resolution was submitted to Government for sanction by the Commissioner of Nilgiris with the following remarks—*vide* paragraph 4 of his letter printed in G.O., dated 11th October 1879, No. 1500, Public Department: "I can, however, see no reason whatever why parties should be allowed to shoot over all Government forests without contributing an anna for their sport. The fee proposed by the Association is reasonable, and the proceeds can, should Government see fit, be handed over to the Association to be devoted to enforcing and carrying out the purposes of the Game Act."

3. In paragraph 2 of the Government Order above quoted, the Government appears to have given tacit sanction to the proposal. The draft notification requiring the payment of Rs. 15 for each license to shoot or beat for game in Government sholahs was approved in G.O., dated 7th February 1880, No. 237, Judicial Department.

4. After the introduction of the Forest Act V of 1882 (Madras), rules were proposed in conformity with the provisions thereof to regulate shooting, &c., in Government reserves. In paragraph 5 of his letter dated 2nd February 1885, No. 1873, addressed to the Board of Revenue, the Conservator of Forests, Northern Circle, observed: "It will be, of course, understood that, as hitherto, the fees will be credited, not to Forest revenue, but to the Game Preservation Fund." In G.O., dated 16th April 1885, No. 440, Revenue, the proposals made by the Conservator were approved, and the G.O., of February 1880, No. 237, under which the license fee of Rs. 15 had been previously levied, was cancelled. The rules issued under the Forest Act were twice revised by G.O., dated 6th December 1886, No. 1070, Revenue, and G.O., dated 1st July 1889, No. 545, Revenue, but the revision does not affect the appropriation of the license fees to the Game Association.

5. The foregoing paragraphs explain the origin of the Game Fund and its diversion to the Nilgiri Game Association for the purposes set forth in its resolution of June 1879.

6. The fund thus formed is lodged in the branch Bank of Madras at Ootacamund in the name of the Collector for the time being, and is drawn upon as required by private cheques on the requisition of the Honorary Secretary of the Game Association. The diversion of the fund to the Game Association, as above explained, explains why the collections are deposited in the Bank, instead of in the Government Treasury.

7. The revenue derived from license fees is the stand-by of the Game Fund, and the Association is entirely dependent upon such revenue to meet the cost of the preventive establishment which it maintains to suppress poaching and of the large expenditure which it incurs from time to time in importing trout ova and exotic game birds.

Bill to make better provision for the protection of Game and Fish in certain portions of the Madras Presidency and Statement of Objects and Reasons.

ORDER—dated 13th September 1890, No. 33, Legislative.

His Excellency the Governor in Council approves the Bill to make better provision for the protection of Game and Fish in certain portions of the Madras Presidency, and the Right Honorable the Governor directs, under Rule 25 of the Rules for the conduct of business in the Council for making Laws and Regulations, that the Bill, together with the Statement of Objects and Reasons, be published in the *Fort St. George Gazette*.

2. The Honorable Mr. Garstin will be requested to take charge of the Bill.

(True Extract.)

A. G. Cardew.

Under Secy. to Govt.

To the Public Department.
„ Hon'ble Mr. Garstin, C.S.I.

*2 copies of Bill
to be forwarded*

Public *Ch. 2893.*
Govt. of {1890} Madras.
LEGISLATIVE.

N
L.O. 20 Oct. 90 No. 703.

Recorded

15

Issued. *2/10/90.*
Recd. *5/10/90* CHIEF SECRETARY
replied Encl.

203
*14/1**

G.O., 13th Sept. 1890, No. 33.

SEPTEMBER.

*To the Collector & Dist.
Magte: of Vilgiris.
Hony. Secy: Nil.
Vilgiri Game Assoc.*

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