

Recd
25/4

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ORDINARY, MS.

Public DEPARTMENT.
G.O., DATED 25-4-92
No. 275

INDEXED.

When given for copying 25/4

[Despatch Abstract.]

Murder from
2 Fish Preservation
Bill

Public

DEPARTMENT.

Paper taken out of the Records from the charge of the Referencer.

Press
Miscellaneous
Routine

No. 274 dated 25-4-92 192

Date taken out.	FOR WHAT PURPOSE.			Initials of clerk taking the paper or of attender.	Date returned.	Initials of attender.
	Department.	C. No.	Year.			
3-3-27	MD	1442	27	10-5-27		
20/5/67		SS				

[illegible]

STATEMENT OF OBJECTS AND REASONS.

At a meeting held on the 25th March 1889, the Nilgiri Game Association resolved to bring to the notice of Government the need for the revision in certain respects of the existing law for the protection of game and acclimatized fish in the Nilgiris, viz., Madras Act II of 1879. The Association pointed out that, owing to a defect in the present Act, there is no power to prohibit the indiscriminate slaughter of the females or young of any animal during the open season of the year; that inconvenience is created by some of the rules relating to game being issued under the Nilgiri Game Act and others under the Forest Act; and that there is no provision in the present Act requiring a license for shooting in areas to which the Act applies, and therefore fees cannot be levied from sportsmen except in the case of those shooting in reserved forests. The Collector of the Nilgiris, in submitting to Government the Proceedings of the Association, supported its view that an amendment of Madras Act II of 1879 is necessary, and the Government, concurring, resolved to revise the Act entirely. A Bill was therefore prepared and published under Rule XXV of the Legislative Standing Orders. Of this Bill the main provisions were as follows:—The first change related to the local extent of the enactment, which at present does not apply to the three Amshams of the Nilgiri-Wynaad. This was an obvious defect inasmuch as they constitute a part of the Nilgiri district and also form an important breeding-ground. The Nilgiri-Wynaad was therefore added to the schedule fixing the limits of the Nilgiri district for the purpose of the Act. Secondly, power was taken to extend the measure to other portions of the Presidency such as the Palni Hills. Thirdly, provision was made for the issue of licenses for the regulation of the pursuit, capture and slaughter of game in any area to which the Act applied and for the levy of fees for such licenses. Sections 5 and 6 re-enacted the provisions of sections 3, 4 and 5 of the existing Act, but the limitation of the protection which can be accorded thereunder to birds, animals or fish which are not indigenous to the district was removed on the ground that it is not less desirable to prevent the extermination of indigenous species than to foster the increase of newly-imported varieties. The provision suggested by the Game Association for the protection of the females and young was made and power was taken to control the sale of game with a view to check evasions of the law regarding shooting. The maximum penalty for a breach of the law was slightly raised; provision was made for the cancellation of the license of any person convicted of an offence punishable under the Act, and section 6 of the existing Act was re-enacted with such modification as was necessary to bring it into accord with section 57 of the Code of Criminal Procedure. This Bill was in due course forwarded to the Right Honorable the Secretary of State, but that authority, in his despatch, dated the 13th November 1890, No 1 (Legislative), expressed doubts as to the advisability of the proposed measure and requested that this Government before proceeding with it would consult the Government of India.

The Government of India was accordingly addressed, and replied in a letter dated the 24th February 1891, No. 531 (Legislative). The Governor-General in Council raised objections to two provisions in the Bill, namely, (1) that relating to the extension of Act to any part of the Presidency, and (2) that requiring sportsmen to take out licenses. On the former point the Government of India observed that there would be no serious objection to the extension of the enactment to areas similar in character to the Nilgiris, but that the Bill as it stood empowered the Government to extend the Act to any part of the Presidency. As regards the latter point the Government of India expressed its decided opinion that the sole object of any such measure as that proposed should be the protection of the wild creatures themselves and not of private property in game.

The Bill in its then form was abandoned in deference to this opinion, and the Collector of the Nilgiris was called upon to report his views as to the amendment of Madras Act II of 1879 in the light of the principles laid down by the Government of India. The Government has now considered his reply, and has resolved to proceed with the repeal of Madras Act II of 1879 and the substitution for it of a more comprehensive measure.

The Bill which has now been drawn up is in most respects identical with that which was objected to by the Government of India, but the obnoxious provision regarding the licensing of sportsmen has been omitted and the power of extending the Act which has been vested in Government has been limited to the Palni and Shevaroy Hills. Provision has also been made for the absolute prohibition of the killing or capture of females or immature males or females of any species.

MADRAS,
31st March 1892.

J. H. GARSTIN.

Government of Fort St. George.

LEGISLATIVE DEPARTMENT.

ANNEXURE

TO

A Bill to make better provision for the protection of Game and Fish in the Nilgiri District and certain other Hill tracts in the Madras Presidency.

(Statement of Objects and Reasons.)

1
Pub: 1020/92

No. 2 of 1892.

A

BILL

TO

*Make better provision for the protection of
Game and Fish in the Nilgiri District
and certain other Hill tracts in 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
in the Nilgiri district and certain other 5
Hill tracts in 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, 1892."

(2) It extends in the first instance to 5
the local area the
Local extent. limits of which are
described in the schedule hereto annexed,
but the Governor in Council may, by
notification in the *Fort St. George Gazette*, 10
extend this Act, in whole or in part, to the
whole or any portion of the tracts known
as the Palni and Shevaroy Hills, and may
from time to time amend or cancel such
notification. 15

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

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, 5
partridge, quail, snipe and woodcock and
shall include such other animals or birds
as the Governor in Council may by noti-
fication in the *Fort St. George Gazette*
declare to be game. 10.

4. (1) The Governor in Council may, 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.

(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 and the use for the capture of fish of fixed engines and nets of a mesh below a certain size.

5. The Governor in Council may, 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, any descriptions of game or fish;

(2) prohibit for any period not exceeding five years within any local area in which this Act is in force, the killing or capture of any descriptions of game or fish;

(3) prohibit absolutely the killing or capture of the mature females or immature males or females of any descriptions of game.

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

6. The Governor in Council may, 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.

7. 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, shall be liable on conviction to fine not exceeding one hundred rupees.

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

9. 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. 5

The Governor in Council may delegate his power under this section to such subordinate revenue authorities as he may think fit to appoint. 10

10. Subject to such rules as the Governor in Council may prescribe, all fines levied, and all 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 of any fine levied or of any sum realized as aforesaid. 5 10

11. Nothing in this Act shall be deemed to prevent any owner or occupier of land from killing, capturing, or pursuing at any time within the limits of such land game doing damage to any crop growing thereon. 5

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 as far as the boundary of the Nilgiri district, and thence the boundary of the Nilgiri district as determined for ordinary administrative purposes to the junction of the Moyar river with the Kakanhalla river, on the Mysore-Nilgiri boundary, about four miles north of Tippiakadu.
3. Thence the boundary of the South-east Wynad 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

TO

Make better provision for the protection of Game
and Fish in the Nilgiri District and certain
other Hill tracts in the Madras Presidency.

2
Pub. 1020/92

G.O., dated 23rd July 1891, No. 47, Legislative.

ABSTRACT.—Recording Revenue Proceedings communicating, with remarks, Revenue Board's Proceedings forwarding to the Collector of Nilgiris, with certain observations, Legislative G.O., 15th April 1891, No. 18.

G.O., dated 17th September 1891, No. 880, Revenue.

Read—the following Proceedings of the Board of Revenue (Land Revenue), dated 4th September 1891, Forest No. 385 :—

Read—the following letter from C. F. MacCARTIE, Esq., Acting Collector of the Nilgiris, to the Secretary to the Commissioners of Land Revenue, dated Ootacamund, 3rd August 1891, No. 278 :—

With reference to Board's Proceedings, dated 2nd June 1891, No. 336, I have the honour to submit the Proceedings of a general meeting of the Nilgiri Game Association held on 17th ultimo, together with a printed copy of the annual report and of the committee's resolutions on which the resolutions passed at the general meeting are based.

2. The adoption of the schedule referred to in section 1 (2) of the abandoned draft Bill, as described in detail in the second of the committee's resolutions, is necessitated by the remark contained in the Government of India letter that there is no objection to extend Act II, 1879, to the whole of the Nilgiri district as now constituted. The proposed schedule will freshly include the South-East Wynad as suggested by the Government of India while retaining within the jurisdiction of the Game Act those parts of Malabar and Coimbatore which have been within game limits all along.

3. If practicable, it is most desirable to make it legally incumbent upon all persons wishing to shoot on any public waste land to take out a license. Otherwise it is quite open to Native shikaris to post themselves on the grass outside reserved sholas and to shoot down all game coming out to feed. If this proposal is approved, it will be necessary to provide in the new Act that licenses shall be obtained for shooting on waste lands, as they are now obtained in case of reserved forests under Act V of 1882 (Madras). It seems to me that the simpler and easier procedure will be to enact a provision in the new Act enforcing licenses for shooting for all the areas, reserved and unreserved, within the game limits. The Government of India may be assured that by so doing the efficiency of forest administration and conservation will not in any way suffer, as the Collector, in whom the control is vested, will take every care, as now, to exclude reserves requiring special protection, in communication with his Forest Assistant.

4. I am in favour of raising the license fee from Rs. 15 to Rs. 30. The cost of preserving is heavy, and funds are required for experimental importations. Devotees of sport are always willing to pay for it, and the enhanced fee is by no means prohibitive.

ENCLOSURE.

PROCEEDINGS of a General Meeting of the Nilgiri Game Association held at the Collector's Office, Ootacamund, on the 17th July 1891.

ii. Read Board's Proceedings, dated 2nd June 1891, No. 336.

Resolved that the committee's resolution be adopted and the limits of the local area to which the Act shall apply are recommended for the sanction of Government.

iii. Proposed by Colonel Liardet and seconded by N. G. Beadnell, Esq., and carried unanimously, that the special attention of Government be invited to the fact that the law, as it stands at present, permits of persons shooting on Government waste lands other than reserved forests without a license, such waste lands being the grazing grounds of game harbouring in the reserved forests.

iv. Read committee's resolution No. III; Colonel Lockhart's amendment, seconded by Colonel Liardet, that the fee stand at Rs. 15, and that a tax be imposed on each sambur, ibex, bison, and barking deer shot, having been put and lost. It was proposed by Captain the Honorable R. T. Lawley and seconded by W. O. David, Esq., that the committee's proposal that the fee for shooting licenses be raised to Rs. 30 be submitted for the favorable consideration of Government. The expenses of preservation are heavy and cannot be curtailed, and in no other way can funds be found for the further importation of new species of fish and game.

Letters from Messrs. G. Salmon and F. W. Dyas bearing on the above were read.

Resolution—dated 4th September 1891, Forest No. 385.

Submitted to Government, with reference to G.O., dated 2nd May 1891, Mis. No. 2718, Revenue.

2. The Board concurs in the views expressed by the Collector.

(A true Copy and Extract.)

(Signed) H. A. SIM,
Acting Secretary.

To the Secretary to Government, Revenue Department,
with one enclosure (to be returned).

" Collector of the Nilgiris.
" Conservator of Forests, Southern Circle.
Copy to the Conservator of Forests, Northern Circle.
" Examiner of Forest Accounts.
" Collectors of all other districts except Madras and Nilgiris.

Order—dated 17th September 1891, No. 880, Revenue.

Forest, No. 198.

The proposal to raise the fee for a game license on the Nilgiris from Rs. 15 to Rs. 30 is sanctioned. The enhanced fee will be levied only in the area to which the Nilgiri Game Act (II of 1879) applies. The following notification will be published in the Fort St. George and Nilgiri District Gazettes:—

NOTIFICATION.

For Rule 3 of the rules under section 21 (h) of the Forest Act (V of 1882) published at page 1117 of Part I of the *Fort St. George Gazette* of December 21, 1886, the following rule is substituted:—

3. The payment to be made for such license shall be as follows:—

- (1) By all persons desiring to shoot within the limits specified in Rule 1 (a) *—Rs. 30.
- (2) By all persons desiring to shoot within the limits specified in Rule 1 (b) †—Rs. 15.

* Reserved forests to which the Nilgiris Game and Fish Preservation Act applies.

† All reserved forests in Nilgiris and Wynnad.

The said licenses shall not be transferable, and, whether taken out at the commencement or during the currency of the *faski* year, shall only be available for the currency of the said *faski* year.

2. Orders will issue in due course on the other questions raised in the Board's Proceedings read above.

(True Extract.)

(Signed) C. A. GALTON,
Secretary to Government.

To the Commissioners of Land Revenue, with one enclosure.
" the Superintendent, Government Press, with copy of notification.

G.O., dated 20th November 1891, No. 1110, Revenue.

Read—again G.O., dated 17th September 1891, No. 880, Revenue.

ABSTRACT.—Sanctioning the proposal to raise the game license fee from Rs. 15 to Rs. 30 subject to the condition that the enhanced fee shall be levied only in the area to which the Nilgiri Game Act applies.

Read—also the following letter from C. F. MacCARTIE, Esq., Acting Collector of Nilgiris, to the Secretary to Government, Revenue Department, dated Ootacamund, 29th October 1891, No. 102 :—

With reference to official memorandum, No. 130, dated 23rd instant, I have the honour to submit, herewith, a full copy of Resolution II passed at the meeting of the committee of the Nilgiri Game Association held at the Collector's office on 8th July 1891.

ENCLOSURE.

PROCEEDINGS of a Meeting of the Committee of the Nilgiri Game Association held at the Collector's Office on the 8th July 1891.

II. Read Board's Proceedings, dated 2nd June 1891, No. 336, communicating G.O., dated 15th of April 1891, No. 18, Legislative.

Resolved—That with reference to the remark contained in Government of India letter that there is no objection to extend Act II of 1879 to the whole of the Nilgiri district as now constituted, the committee observes that Act II of 1879 already extends to an area in the Malabar district known as the Silent Valley and to parts of the Coimbatore district that border on the Bhavani and Moyar rivers, while the boundaries of the Nilgiri district follow an artificial line. These tracts afford sanctuaries for game and are its chief breeding ground; hence their conservation is of vital importance. The committee would therefore recommend adoption in its entirety of the schedule referred to in section 1 (2) of the draft Bill as follows :—

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

- (i) South bank of the Bhavani river from Attapadi, in the valley of that name, to its junction with the Moyar river.
- (ii) From that point the north bank of the Moyar river to its junction with the Kakkanhalla river on the Mysore-Nilgiri boundary about 4 miles north of Tippiakadu.
- (iii) Thence the boundary of the South-East Wynad division of the Nilgiri district to Nilgiri Peak.
- (iv) From that point the western crest of the Nilgiri hills to its termination below Sispára.
- (v) Thence along the northern, western and southern crest of Silent Valley range to its southernmost points.
- (vi) From that point to Attapadi.

The adoption of these limits will include the old area *plus* the addition of South-East Wynad.

The committee observe that the law as it stands at present permits of persons shooting over Government waste lands other than reserved forests without a license, and would strongly urge that it should be made incumbent on all persons who wish to shoot on any public waste land, whether reserved or not, to take out a license, otherwise the purposes for which Act II of 1879 were passed will be defeated.

Order—dated 20th November 1891, No. 1110, Revenue.

Miscellaneous.

The resolution of the Nilgiri Game Association in regard to the extension of Act II of 1879 to the whole of the Nilgiri district will be communicated to the Legislative Department with reference to paragraph 2 of G.O., dated 15th April 1891, No. 18. The Government approves of the proposed extension.

2. His Excellency in Council is unable to accept the committee's suggestion that it should be made legally incumbent upon all persons wishing to shoot on any public waste land to take out a license, as the Government of India has already on several occasions vetoed similar proposals.

(True Extract.)

(Signed) C. A. GALTON,
Secretary to Government.

To the Legislative Department.
„ Commissioners of Land Revenue.

READ—also the following papers :—

Revised Bill to make better provision for the protection of game and fish in the Nilgiri District and certain other Hill tracts in the Madras Presidency, together with the Statement of Objects and Reasons.

G.O., dated 11th March 1892, No. 18, Routine, Legislative.

The revised Bill to make better provision for the preservation of game and fish in certain portions of the Madras Presidency will be referred to the Advocate-General for remarks at an early date.

(True Extract.)

A. BUTTERWORTH,
Ag. Under Secy. to Govt.

To the Advocate-General, through the Government Solicitor.

From the Government Solicitor, dated 15th March 1892, No. 87.

ABSTRACT.—Forwarding the following opinion of the Advocate-General, dated 15th March 1892 :—

OPINION.

The Bill seems to be within the limits laid down by the Government of India.

2. The only observations I have to make on its terms are the following :—

Section 5 (2).—I would omit the words “altogether” in line 1 and “or similarly” in line 6, and would make a third sub-section of the next prohibition omitting the words “in perpetuity” thus :—

“(3) prohibit absolutely the killing or capture of the mature females or immature males or females of any description of game.”

Section 9.—I think that the clause authorising the Governor in Council to “delegate his power under this section to any subordinate revenue authority” is too wide in its terms, and should be omitted altogether, or, if it be retained, that the power of delegation should be confined within narrow limits.

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

Revised Bill to make better provision for the protection of game and fish in the Nilgiri District and certain other Hill tracts in the Madras Presidency with the Statement of Objects and Reasons.

ORDER—dated 31st March 1892, No. 19, Legislative.

The Government of India, in its letter dated the 24th February 1891, No. 531, Legislative, raised two objections to the Bill to make better provision for the protection of game and fish in certain portions of the Madras Presidency which was approved by this Government in G.O., dated 13th September 1890, No. 33, Legislative.

2. The original Bill was so worded as to vest in the Governor in Council power to extend the operation of the Act to any portion of the Madras Presidency, and although it was never the intention of Government that the Act should be rendered applicable to ordinary tracts on the plains still the Bill was open to the objection that the whole Presidency could, if the Governor in Council thought fit, be rendered obnoxious to it. This the Government of India pointed out and objected to, while at the same time it observed that there was no serious objection to the extension of the measure to such Hill tracts as the Palnis and Shevaroyes.

3. The Bill further rendered the pursuit of game conditional upon the possession of a license to be issued on payment of fees to be prescribed by the Governor in Council. To this provision the Government of India raised the objection that it converted the Bill from a measure for the protection of wild animals into a measure for the protection of private property in game—a matter in respect of which His Excellency the Governor-General in Council considered legislation to be highly undesirable.

4. The Bill printed as an annexure to this Proceedings, which has been further revised with reference to the Advocate-General's opinion, is free from these objections and meets with the approval of His Excellency the Governor in Council. It will accordingly be published, together with the Statement of Objects and Reasons, in the *Fort St. George Gazette* in English and the Vernaculars under Rule XXV of the rules for the conduct of business in the Council for making Laws and Regulations.

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

6. The Right Honorable the Secretary of State and the Government of India will be addressed accordingly.

[Here enter No. 20, dated 31st March 1892.]

(True Extract.)



Ag. Under Secy. to Govt.

To the Revenue Department.
 " Public
 " Honorable Mr. J. H. Garstin, c.s.i.
 " Translators to Government.

CURRENT NO. 1020

Public Dept.

Govt. of {1892} Madras.
LEGISLATIVE.

Issued

Recd. 12th April 1892 Encl.
Encls: 2

G.O., 31st March 1892, No. 19.

MARCH.

**Madras Game and Fish Preser-
vation Bill.**

Revising the Bill to make better provision
for the protection of game and fish in certain
portions of the Madras Presidency, and addressing
the Government of India and the Secretary of
State on the subject.

order 25 April 2

275

Recorded.

note

will, no doubt,

be commd. to the collr.
by the Revenue dept.

30B.

15/4

But has not been forwarded
regarding this bill with
the collr. dept.

Yes. in Public. Copy
will be sent to the
collector.

30B.

28/4
21/4.

To the collector of
Nilgiris.

DESPATCHED

27 APR 92

IN M.S.

W.O.

MADRAS RECORD OFFICE.

Block No.

Paper taken out of the Records from the charge of the Referencer,
 Procs
 A.A.

Dept.

~~Press~~
Mis.
Rout.

No 275, dated 25-4-197

Rank No. _____
Range, _____

Date taken out.	FOR WHAT PURPOSE.			Initials of Referencer.	Date returned.	Initials attending.
	Department.	C. No.	Year.			
26/11/12	WCo	4374	12	W8	9/1/13	
~~28/1/13~~	~~WCo~~	~~4375~~	~~13~~			

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