M.R.O. 14—5,450—22-10-25.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 3024 Press ~~Mis.~~

167-168

Dated 7— 11 — 1866.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 7th November 1866.

No. 167. Read the following Circular from the Government of India, Public Works Department, (Revenue—Forests), dated Simla, 17th September 1866, No. 12:—

Opinion of Counsel as to matters to be provided for in Forest Rules and otherwise under Act VII. of 1860.

Read the following papers:—

I. Extract Clauses I. to VII. of Draft Forest Rules proposed for British Sikkim.

The waste lands in British Sikkim, which are not private property, are all, as respects timber and other natural products, to be regarded as Government Forests, and to be administered in the Forest Department.

II. These Forests are divisible into two classes:—

1st.—Reserved Forests.

2nd.—Unreserved Forests.

The first will contain the most valuable Forest tracts, and will be taken up and reserved from sale under the Waste Land Rules, or from lease.

The remainder, whether reserved from sale under Rule 19 of the Waste Land Sale Rules, or liable to sale under these rules, are Unreserved Forests.

III. The Government Reserved Forests of British Sikkim are bounded and limited as follows:—

Within the hill territory of Darjeeling—

1st.—All Forests situated above an elevation of 6,000 feet above the sea, and including the Cantonment lands of Jullapahar and Sinchal.

2nd.—The Forest on the Leebong Hill, included between Mr. Grant's location and Ging.

3rd.—The Sâl Forests in the valley of the Rivers Great Runjeet and Teesta to an elevation of 3,000 feet above the sea. In the valley of the Teesta, these Forests include both banks of the river to an elevation of 3,000 feet above the sea.

4th.—The Forests on the outer range of hills bounded by the base of the hills, and a line drawn at an elevation of 3,000 feet above the sea.

5th.—The Sissoo and Sâl Forests of the Terai as defined on the map and demarcated by the boundary pillars used by the Forest Department.

IV. Reserved Forests and any others, which may be assigned to the care of the Conservator of Forests and his Assistants, are managed exclusively by them.

V. Unreserved Forests, though liable to be sold under the Waste Land Rules, or to be leased under the orders of the Civil Officers of the District, are so far under the management of the Forest Department, that Forest Officers may undertake any operations connected with planting, cutting, or selling timber in these Unreserved Forests, which, in the opinion of the Conservator of Forests, may be necessary, until application be made for their sale under the Waste Land Rules.

VI. The boundaries of Reserved Forests will be demarcated by masonry pillars, or by boundary paths, or by both, or in other permanent manner in concert with the Civil Authorities. Proclamation of these Forests having been created Government reserves, will be publicly made in the District.

VII. In all sales under the Waste Land Rules of unassessed waste lands, a right-of-way over the land by slips, or otherwise, as may seem proper for the carriage of timber from Government Forests, will be reserved. In all sales of such lands a condition will be annexed for the preservation of all trees within 100 feet of any hill stream or Jhora.

Extract, paragraphs 2 *to* 5 *of Advocate General's Opinion, dated* 18*th July* 1866.

2. It appears to me that the first seven Rules should be omitted: they have been framed without sufficient attention to the provisions of Act VII. of 1865. That Act gives the definition of "Government Forests" as "such land covered with trees, &c., as shall be declared to be subject to the provisions of the Act." Accordingly, it is a condition precedent to the introduction of any Forest Rules that there should be a notification in the Official *Gazette*, defining the lands which are to become subject to the provisions of the Act. This notification is not to abridge or affect any existing rights of individuals or communities; but if (as I understand is the case) it is intended to bring under the operation of the Act only, the waste lands, which are at present the absolute property of the Crown, it is most probable, if not certain, that there are no such existing rights. As regards rights hereafter to be acquired by lease or sale of waste lands, it is quite unnecessary to make any mention of them in the Rules; and, indeed, any provisions in that behalf would be out of place in a body of Rules, the object of which is to establish and define the existing rights of the Crown. Whenever any tract of land, subject to the provisions of the Act, and the Rules passed thereunder, is leased or sold, it will depend on the terms of the instrument of lease or sale, whether, and to what extent, the Forest rights over such land are reserved or parted with by the Government.

3. It further appears to me that there is no substantial purpose gained by the proposed distinction between "Reserved" and "Unreserved" Forests, and it may be doubted whether any such distinction is warranted by the Act. But whether so warranted or not, all that the Rules propose on the subject is that Unreserved shall be in the same position as Reserved Forests until application is made for their sale under the Waste Land Rules, a provision which, as I have above pointed out, is superfluous.

4. I am of opinion that a notification should be issued defining the lands which are brought under the Act, and that the rules should begin with the proposed Rule VIII.; the body of Rules being prefaced by an intimation to the effect that, "with reference to the Notification published, &c., the following rules having been made by the Government of Bengal, and confirmed by the Governor General in Council, under the provisions of Act VII. of 1865, are published as required by the Act."

5. The following may be adopted as the form of Notification:—

"It is hereby notified that, from and after the date hereof, all lands covered with trees, brushwood, or jungle, situate within the limits of British Sikkim, as

hereinafter defined, shall be, and are hereby (without prejudice to any existing rights therein), made subject to the provisions of 'the Government Forests' Act 1865.' The limits of British Sikkim are as follows, &c."

ORDER.—Ordered, that these extracts be communicated to the several Local Governments and Administrations for information.

(Signed) C. H. DICKENS, Lieut.-Colonel, R. A.,
Secretary to the Government of India.

No. 168. ORDER THEREON, 7th November 1866, No. 3,024.

Forests, No. 5.

Communicated to the Board of Revenue and Conservator of Forests.

(True Extract.)
(Signed) J. D. SIM,
Secretary to Government.

To the Board of Revenue.
" " the Conservator of Forests.

Exd. S. T. Augustin.

Rev: 1866. Vol 4th
Pro. of Govt Nº 3592. 5 Septr
From the Offg Asst
Secty. to the

GOVERNMENT OF INDIA.

PUBLIC WORKS DEPARTMENT.

REVENUE—FORESTS.

3d

To

CIRCULAR No. 12 FOREST.

Dated SIMLA, *September* 17, 1866,

Received 13th Octr.

Opinion of Counsel as to matters to be provided for in Forest Rules and otherwise, under Act VII of 1865.

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