M.R.O. 1—89,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1457 Press Mis.

660-646

Dated 29 th May 1869

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
27th May 1869.

No. 645. Read again Proceedings of Government, Revenue Department, dated 8th March 1869, No. 624 :—

Read also the following letter from Major R. H. BEDDOME, Officiating Conservator of Forests, to the Acting Secretary to Government, Revenue Department, Fort Saint George, dated camp at Kakincottah, 15th March 1869, No. 1,243.

With reference to paragraph 12 of the Government Order, No. 2,155, of the 13th of August, 1868, calling upon me for a special report upon the introduction of Act VII. of 1865 into this Presidency, I have the honor to inform you that I have not much to add to the matter already contained in the papers recorded in the Government Order, No. 624, of the 8th instant, and in other papers now before Government on the subject.

2. In my Annual Report for the last official year I stated that the Penal Code appeared sufficient for our purpose, as far as the punishment of most forest offences goes. The Act, as at present framed, is ridiculously inadequate for this purpose in all cases of clandestine felling and theft: it provides for no punishment beyond confiscation, and is the same as if the Penal Code had a clause that the only punishment a thief could undergo was the having to give up the property he had stolen. The Inspector-General of Forests lately informed me that this clause was to be altered; and the Conservator of the Central Provinces told me that he punished both under the Act and under the Penal Code. Unless this latter practice is to be allowed, (which appears to me doubtful,) or unless the Act undergoes some revision on this point, there can be no doubt that the Penal Code is far more to the purpose in all grave offences than the new Act.

3. The Board observe that the Act is quite unnecessary, as the Penal Code already provides for offences of every description under the heads of Mischief, Trespass, and Theft. This, I believe, is not quite the case: the Code provides only against criminal not against simple trespass. As Government is now going to a large outlay in the formation of fuel reserves and plantations on a large scale, the Act or some special legislation may be necessary on this subject: without it we shall have great difficulty in keeping people out of our shade-yielding reserves and plantations; and great loss by fire may result from the entry of parties without any criminal intent, and is a thing most likely to occur. On this subject of trespass I would draw the careful attention of Government to Dr. Cleghorn's letter, No. 323, to the Inspector-General of Police, recorded in the Government Order, No. 624, above alluded to.

4. The Collector of Vizagapatam considers the Act necessary, as it would enable our department to do legally what it is now doing illegally. Several Collectors, Magistrates and Judges, have expressed similar opinions to me; and it is frequently observed that our Forest Rules, as sanctioned by Government, are of no real use, unless they are made law; and one Judge, (as specially reported,) has allowed it to be generally understood in his district that he will never uphold a Magistrate's punishment for forest theft. Many Magistrates are doubtful as to how they should act; they are often glad of an excuse to let offenders off, only punish in very flagrant cases, or punish too leniently. This soon becomes known in a district, and is suggestive of forest offences, and renders conservancy very difficult,

We have, in fact, no standing; and none of our Officers or the magisterial authorities know exactly on what footing we stand: it has, therefore, to be considered how far the Act or some special legislation is necessary to settle these points.. Unless they are settled, and unless our forest rules are to be acted up to, the Forest Department in this Presidency cannot be expected to show results in comparison with other countries.

5. Some Collectors are averse to the introduction of the Act, on the grounds that it would interfere with the grazing of cattle, or place impediments to the practice of removing leaves or grass, or otherwise interfere with the existing privileges of the inhabitants. This, however, need never be the case. No rules are put in force without the sanction of Collectors. They do not interfere with prescriptive rights; and such rules as prohibit grazing, etc., only apply to certain reserved tracts.

6. It has also been suggested that the Act should only apply to large uninhabited forests: such tracts take care of themselves; and our rules are chiefly framed in connection with the more limited forests of the plains, which are generally traversed by roads, etc. It is these that are likely to disappear before civilization and the extension of railroads, and these which it is the duty of our department to preserve, not to the hindrance of cultivation, or to the oppression of the people, but for the good of the country, the regular supply of firewood and timber, the creation of a revenue to pay for their renewal and conservancy, and for the formation of plantations, etc., etc. As Dr. Cleghorn observes, the people know the privileges they possess, and would yield a contented obedience to our rules. It is unemployed rogues and unprincipled native Revenue subordinates that we have to guard against, and the stricter our rules are enforced, the fewer the attempts to break them.

7. I have already recommended that our Officers should be placed more under Collectors than they are at present in all matters not purely departmental, and that I should like to see our department more a branch of the Revenue establishment. Dr. Cleghorn has also recommended that our senior Officers should have magisterial powers; these subjects might be considered in connection with any special legislation. The Board consider that the Act opens a dangerous field for oppression, as even a Peon might arrest any person infringing its rules: such powers need only be given to responsible subordinates such as the Collector may depute. Our Officers would scarcely wish to arrest, except in flagrant cases, and they would, of course, be held responsible for their acts under any such privilege.

8. Much of this report is necessarily a recapitulation of facts already before Government; but I have endeavoured to represent the case just as it stands at present:

First,—Our department requires a standing that it does not now possess, either in the eyes of the population, or before the magisterial authorities. Special legislation may or may not be necessary for this; but our authority should be clearly defined, and when rules are published, they should be strictly enforced, not so laxly as to invite a breach.

Second,—The Penal Code seems to provide against all forest offences, except simple trespass. In my two late reports upon the Jungle Conservancy Department, I have already pointed out the jealousy that exists between the Land Revenue authorities and our department; but it is a subject that may well be considered in

connection with the subject of Forest Legislation. It is very detrimental to the department and to Government, and the only remedy I can see is the amalgamation of the two departments, the placing of our Officers more under Collectors and making as a branch of the Land Revenue.

No. 646. ORDER THEREON, 27th May 1869, No. 1,497.

Forests, No. 31.

THE foregoing papers relate to the introduction of the Forest Act into this Presidency.

2. The majority of the Collectors of districts are opposed to the introduction of the Act, being of opinion that it would lead to the oppression of the poorer class of ryots who are but little able to protect their rights.

3. The Board of Revenue are very much averse to the Act, considering that the Penal Code sufficiently provides for all forest offences, and pointing out that the extension of the Act to this Presidency would in no way facilitate conservancy, as it could only be applied to land free from private rights.

4. They further point out that, while useless for any good purpose, the Act would open a wide field for oppression and extortion, placing as it would large powers in the hands of ill-paid and irresponsible servants in the Forest Department.

5. The Conservator of Forests, Dr. Cleghorn, is in favor of introducing the Act into Madras, as it has worked satisfactorily in the seven Provinces to which it has been extended. The Officiating Conservator, Major Beddome, is also, on the whole, in favor of the introduction of the Act, though he considers the enactment itself to be very defective, and that the Penal Code provides more effectually for the punishment of all forest offences, except simple trespass.

6. The Right Honorable the Governor in Council has given the papers submitted his most careful consideration, and is of opinion that the introduction of the Forest Act into the Madras Presidency is uncalled for at present and would be inexpedient.

7. The tenure of land in Southern India differs vastly from that of those portions of the Continent where the Act is said to have been introduced with success. As observed by the Board, however applicable such an enactment may prove to the large forests of Burmah and other similar localities, it could hardly be introduced into this Presidency where nearly all the jungles and forests are within village boundaries, and are subject to the prescriptive rights of the villagers, without causing much popular discontent and serious risk of oppression.

(True Extract.)

(Signed) R. A. DALYELL,
Acting Secretary to Government.

To the Officiating Conservator of Forests.
,, the Board of Revenue.

Exd F. R. Bantleman.

Govt. of (1869) Madras.

REVENUE.

To

THE OFFICIATING CONSERVATOR

OF FORESTS,

&c., &c., &c.

D *Fort St. G.*

R *Ramnad.*

G. O., 27th May 1868, No 1,497.

MAY.

Nos. 645-646.

Forests Act VII. of 1865.—Passing orders on the inexpediency of its introduction in the Madras Presidency.

the Penal Code, unless this latter practice is to be allowed (which appears to me doubtful) or unless the Act undergoes some revision on this point, there can be no doubt that the Penal Code is far more to the purpose in all grave offences than the new Act.

3. The Board observe that the Act is quite unnecessary as the Penal Code already provides for offences of every description, under the heads of Mischief, Trespass, and Theft. This I believe is not quite the case, the Code provides only against criminal not against simple Trespass. As Government is now going to a large outlay in the formation of fuel Reserves and plantations on a large scale, the Act or some special legislation may be necessary on this subject, without it we shall have great difficulty in keeping people out of our shade yielding preserves and plantations, and great loss by fire may result from the entry of parties without any criminal intent and to a thing most likely to occur, on this subject of trespass. I would draw the careful attention of Government to Dr. Cleghorn's letter, No. 329 of 1, to the Inspector General of Police, recorded in the Government Order No. 824 above alluded to.

4. The Collector of Vizagapatam considers the Act necessary as it would enable our Department to do legally what it is now doing illegally. Several Collectors, Magistrates and Judges have expressed similar opinions to me and it is frequently observed that our Forest Rules as sanctioned by Government are of no real use unless they are made Law, and one Judge (as specially reported) has allowed it to be generally understood in his district that he will never uphold a Magistrate's punishment for forest theft. Many Magistrates are doubtful as to how they should act, they are often glad of an excuse to let offenders off, only punish in very flagrant cases, or punish too leniently. This soon becomes known in a district and is suggestive of forest offences and renders Conservancy very difficult, we have in fact no Standing and none of our officers or the Magisterial authorities know exactly on what footing we stand it has therefore to be considered how far the Act or some special legislation is necessary to settle these points. Unless they are settled and unless our forest rules are to be acted up to, the Forest Department in this Presidency cannot be expected to show results in comparison with other Countries.

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6. It has also been suggested that the Act should only apply to large uninhabited forests; such tracts take care of themselves, and our rules are chiefly framed in connection with the more

more limited forests of the plains which are generally traversed by roads &c.ᵃ, it is these that are likely to disappear before civilization and the extension of Railroads and these which it is the duty of our Department to preserve, not to the hindrance of cultivation or to the oppression of the people, but for the good of the Country, the regular supply of fuelwood and timber, the creation of a revenue to pay for their renewal and Conservancy and for the formation of plantations &c.ᵃ &c.ᵃ, as Dr. Cleghorn observes the people know the privileges they possess and would yield a contented obedience to our Rules, His unemployed rogues and unprincipled native Revenue subordinates, that we have to guard against, and the stricter our Rules and enforced the fewer the attempts to break them.

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I have the honor to be
Sir
Your Most obedient Servant
J C Haldane Major
Officiating Conservator of Forests

Rec.d 13 augst/68 N° 191 - 2
" 6 janry/69 " 53 - 4
" 8 March/69 " 223 - 4
" 20 March/69 " 538 - 9.

Revenue 1869 Vol.
Fasc.
6-N°.920.

To the Gov.r of Fort
To the Secy to Govt Rev Dept

dated 15th of March 1869
Rec.d 22d

N°1243

Reports concerning
the application of
Act N° VII 1865 to this
Presidency

Recd 1497 27 May/69

R. 21 May 645.

C 16 Aug 69 Rep - R.C: 20 Aug 69.

Revenue Depart

Introduction of Forest Act:

For orders:
No 920.

These papers re-
late to the introduction
of the Forest Act into the
Residency; the majority of
the District officers (Col-
lectors) are against the
measure, being of opinion
that it would tend to much
oppression of a class of
people with little means
of protecting themselves:

2. The Board of
Revenue are strongly of
this opinion, and give
other good Reasons a-
against the introduction
of the Act:

3. The Conservator
of Forests & Mr Cleghorn, &
the offg Conservator Majo.
Beddome were as strong-
-ly in favor of adopting
the Enactment in Madras

as it had been success-
fully worked in other
parts of India.

4. In his last forest
Administration report
(para 184) however, Major
Beddome appears to en-
dorse the absolute ne-
cessity of special legis-
lation, but in reply to a
further reference on the
subject, he now expresses
an opinion favorable to
the introduction of the
Act. He nevertheless
seems to point out that the
enactment is very defective
in itself, and that the
Penal Code provides
for every forest offence
except simple trespass.

5. Special Legisla-
tion is always a question
to be a necessary evil,
it seems therefore hardly
expedient to have recourse
to it for the mere preven-
tion of simple trespass-
the occasional ill results

the point of a special
law would hardly coun-
terbalance the generar
inexpediency of introduc-
one.

6. In the last
report of the forest de-
partment it was reported
that smuggling was on
the decrease every where,
and that most cases
of forest theft had
been punished when
prosecuted. It would thus
appear that the existing
law has been generally
sufficient for the pur-
poses of the department.

I would not introduce
the act. I would like
to hear Mr. Arbuthnot.
views discussed in Council
with F.D. generally before
passing an order. N.
I would the propriety
of embodying the
act. The Forest depart-
ment now asks
infliction on the poorer
classes of cultivators &
wood be worked as
act to back them.
the absence from the P. Code
of a punishment for simple
trespass is very much
to be regretted. WDK

I would not introduce the Forest Act at all events at present, but I think we should seriously consider the expediency of

E. C. Bayley

Revenue Department

No 1497

Proceedings of the Madras Govt under date the 27 May 1869

Read again Ro: of Govt R. D. dated 8th March 1869, No 624.

Read also the following letter from the Board of Revenue.

Submitting Report on the application of Act 7 of 1865 to this Presidency.

(Rd: 15th March 1869 No 1245.

The foregoing papers relate to the introduction of the Forest Act into this Presidency.

2 The majority of the Collectors of Districts are opposed to introduction of the Act, being of opinion that it would lead to the oppression of the poorer class of ryots who are but little able to protect their rights.

3 The Board of Revenue are very much averse to the Act considering that the Penal Code

Forest

I planning the actual working of the forests under the Collectors of Districts giving them such special assistance for the performance of this duty as may be required and establishing the connection between the Forests. I gather from the concluding part of Mr Logan's Pollachi journal letter that he anticipates the imposition of some such arrangement.

Mr Logan's suggestion in the Nilgiris to employ a portion of the Convicts labour in the Nilgiris might perhaps be adopted in the Annamalai Hills. The Board of Revenue should be consulted as to the expediency of employing convicts in this manner. Forest conservancy and the planting of trees for fuel &c are matters in which Mr Logan's work (Nilgiris) would be an assistant, and if his work was under this direction, the clashing which Mr Logan's Pollachi Journal would be avoided.

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=vides for all forest
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out that the extension
of the Act to this Pre-
=sidency would in no
way facilitate consid-
=eration, as it could only
be applied to land free
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4. They further point
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=ploying as it would
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punishment of all fo-
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simple trespass.

6. The Right Hono-
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As observed by the
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causing

13 Letter Offg Conservator of Forests Dy No 128
14 " Asst Do "

60/8

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C. 20/5/69 R-21 Mar—