M.R. O. 1—50,000—18-10-29.

Proce

MADRAS RECORD OFFICE.

No. 246

P

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2007 Press Mis.

246-47
Dated 12-12-1870

Not to be folded or roughly handled

No. 246. Read the following letter the from Officiating Secretary to the Government of India, Public Works Department, (Revenue Forests,) to the Governments of Madras, Bombay, Bengal, North-Western Provinces, and the Punjab; and to the Chief Commissioners of Oudh, Central Provinces, British Burmah, and Coorg, dated Fort William, 28th November 1870, Circular No. 20:—

IN December 1868 a draft Forest Bill was circulated for the opinion of Local Governments and Administrations. In accordance with the suggestions made in the replies received, the draft was revised by the Inspector-General of Forests, with the assistance of Mr. Baden Powell, the Officiating Conservator of Forests in the Punjab. The revised draft has not yet been considered in this department, and before it is approved and submitted to the Legislative Council of the Governor-General, His Excellency in Council desires to have the opinions of all Local Governments and Administrations on the measure proposed.

P. W. D. Circular No. 20, dated 15th December 1868.

2. The main objects aimed at in framing the present document have been to provide for the following matters, not provided for in the Government Forest Act of 1865:—

First.—The regulation and settlement of forest rights in Government forests.

Second.—The levying of dues on timber imported from foreign territory, and the control of the transit of timber and other forest produce grown in other than Government forests.

Third.—To declare that all drift, stranded and unclaimed timber found in any river shall be deemed to be the property of Government, until any person prove his right thereto.

Fourth.—The control, in special cases, of private forests, where the welfare of the country appears to demand such interference.

Fifth.—Punishment by fine, in addition to confiscation of timber and implements in certain cases.

3. A doubt had been raised regarding the power of Government to make Rules under Act VII. of 1865, to provide for the administration of several classes of forests, and this was adverted to in previous correspondence on the subject. By a late decision of the Government of India in the Legislative Department, this doubt has been removed, and Forest Rules for the Bengal Presidency are now about to be published, with separate rules for reserved and open forests.

4. The draft Bill is accompanied by an explanatory memorandum drawn up last year by the Inspector-General of Forests, and I am directed to request that the documents now transmitted be circulated to those Forest and Revenue-officers who are likely to give an useful opinion on the subject, and that the conclusions of the Government of Madras be reported for the information of the Government of India.

Proceedings of the Madras Government, Revenue Department,
12th December 1870.

No. 247. ORDER THEREON, 12th December 1870, No. 2,007.

Forests. No. 7.

ORDERED to be communicated to the Board of Revenue and to the Conservator of Forests for their remarks.

2. The Government desire that the Board will obtain and submit the opinions of those Collectors who have personal knowledge of the working of the present Forest Conservancy system, whether in their present or former districts, on the provisions of the Bill.

3. The Conservator of Forests will similarly submit the opinions of the most experienced of his deputies on its details.

(True Extract.)

(Signed) W. HUDLESTON,

Secretary to Government.

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

Ed. F. R. Bantleman.

Govt. of India Quires.

REVENUE.

No.

THE BOARD OF REVENUE.

&c., &c., &c.

Dated Lucknow, 13th,

Read

&c.

G. O. 12th December 1870, No. 2097.

DECEMBER.

Nos. 2446-2477.

Forest Draft Bill.—Letter from Government of India forwarding it, communicated to the Conservator of Forests and Board of Revenue for remarks.

73

Explanatory Memorandum on draft Forest Bill by Mr. D. Brandis, *Inspector General of Forests,—dated Simla, the 3rd August* 1869.

The experience of the last four years has shown that the existing Government Forest Act (VII. of 1865) is not quite applicable to the requirements of Forest administration in this country.

This Act gave power to make Rules for the management of Government Forests, and accordingly Rules have been made and promulgated for British Burmah (August 1865), the Central Provinces (August 1865), Oudh (September 1866), Coorg (September 1865), and British Sikkim, in Bengal (August 1866).

These Rules were prepared by the Local authorities, approved by the Advocate General, and promulgated with the sanction of the Governor General in Council.

2. But the Burmah Rules have since been found to be illegal, their provisions were not covered by the Act, and it has lately been found necessary to legalize them by a special enactment. The Central Provinces Rules also are believed not to be in accordance with the Act. Like those for the Burmah Forests, they contain distinct provisions for two classes,—the reserved and unreserved Forests,—and the Advocate General has since stated his opinion that this is not provided for by the Act which recognizes one class of Government Forests only.

3. The Rules for Coorg, Oudh and Sikkim are incomplete. Section 2 of the Act prescribes the issue of a notification in each Province, defining the Government Forests, which should be made subject to the provisions of the Act. Excepting the reserved Forests in the Central Provinces, the boundaries of which are notified in the official Gazette as the demarcation of each Forest is completed, and the Forests of Burmah, the limits of which were indicated in the Rules, no Government Forests have as yet, in accordance with the Act, been notified in any Province. Nor would this have been practicable, those cases excepted where the boundaries of the Forests have been defined and demarcated.

4. The demarcation of Government Forests was only commenced a few years ago, and it is now progressing gradually in most Provinces. But Forest Rules were wanted at once to secure the protection of the Forests, without waiting for the demarcation of their boundaries.

And it should further be stated that a large portion of the Forests under the control of Government will remain undemarcated for the present, and that Rules are required for the protection of these Forests also.

The Forest Act of 1865 does not distinctly recognize the existing state of things, and it has therefore become necessary to frame a revised Bill, the object of which is to make the law applicable to the different classes and descriptions of Forests existing and under formation.

5. Moreover, Act VII. of 1865 is incomplete in many respects, the most important omission being the absence of all provisions regarding the definition, regulation, commutation and extinction of customary Forest rights. The Act merely provides that the notification defining Government Forests shall not abridge or affect any existing rights of individuals or communities.

6. Now it must be borne in mind that Forest rights are necessarily vague and undefined. They are the result of long established custom under the old state of things, when the Forests were to a certain extent regarded as the common property of everybody, and when the people in the vicinity of a Forest were in the habit, under varying restrictions and taxes imposed by the former Rulers, of resorting to it for wood, timber, grass and pasture for their cattle, and for a variety of other Forest-produce. It seems necessary that some procedure should be fixed for defining and regulating these rights, otherwise they

will render nugatory the operation of any Forest Rules, and impossible the protection of any Forest. The attempt has been made to supply this omission in the draft Bill now submitted.

7. The provisions of Act VII. of 1865 are limited to Government Forests. At the time when the Act was under consideration, it was decided by the Government of India that its operation should not extend either to private Forests, or to Forest lands in the occupancy of communities or individuals in which Government has Forest rights. Forests of the last-named description are extensive in the Punjab and in other Provinces, and Rules are required for their protection and management, as well as for that of the Government Forests.

8. And in some cases it appears necessary to go even further in this respect. Thus, in the Central Provinces, Rule 19 prescribes that no trees or bamboos are to be cut within ten yards of any hill stream, or within twenty yards of any spring. Under the present Act this Rule can only be enforced in Government Forests, but it is desirable for the public benefit to extend its operation to private Forest lands also. And in Coorg, a local Rule has been made prohibiting the clearing of Forest within a certain belt along public roads, a necessary provision in the climate of that Province, but which at present can legally be enforced on Government lands only.

Similar provisions will in course of time be found necessary to guard against the denudation of ridges and upper slopes of the ghâts in Coorg, and in the Madras and Bombay Presidencies, in case the Act should be extended to those territories. In the Himalayas also Government ought to have powers of a similar kind to secure the conservancy of such Forests as may be required for protection against landslips and avalanches.

Connected with provisions of this nature are several others which have the object to enable Government in certain cases to acquire Forest lands, the property of individuals and communities.

9. There are several minor matters, such as the settlement of boundary disputes, the power to exercise a control over timber and other Forest-produce, while in transit, the power to levy duty on foreign timber, the power to establish cattle-pounds, the power to make fine and confiscation cumulative punishments, in regard to which the old Act was defective.

10. I will now proceed to explain the arrangement of the draft Bill submitted.

The difficulty of Forest legislation in this country is that Forest management is in a transitory state. It is not improbable that, as the development of the country progresses, there will be in India the same great classes of Forest property which are found on the Continent of Europe, *viz.*—

I.—State Forests;

II.—Forests of villages and other communities and public institutions, such as temples, churches, schools and hospitals;

III.—Forests of private proprietors.

11. If these different classes of Forests were in existence, legislation would be comparatively easy. The Indian Forest law would, like the *Code Forestier* of France, or other Continental Forest laws, prescribe the needful measure for the protection and management of the two first classes, and define the degree of supervision which in the public interest should be exercised over private forests.

At present, however, matters are in a transition state, and the separation of these different classes of Forests has not yet been accomplished. In some Provinces it has not even been commenced.

12. In the first preliminary part of the Bill, it has been proposed not to extend its operation to Madras and Bombay, but it has been provided that the Governments of those Presidencies shall have power, by notification in the

Gazette, to extend the Act to the territories under their control. The Bill as now drafted, will, however, I believe, fully meet the requirements of these Presidencies.

13. It is further proposed to legalize all Forest Rules made under the Act of 1865, and to authorize their amendment from time to time. This provision will be useful in the case of the Burmah, Central Provinces, and Oudh Rules, which have now been in force since 1865 and 1866, and which it will be convenient to maintain, subject to such amendments as circumstances may from time to time demand. The Coorg and Sikkim Rules will probably be replaced by others when the new Act has been passed.

14. The present Bill contains substantive provisions concerning various matters applicable to all Provinces. Concerning others, it is proposed to give power to make Rules in each Province, in accordance with its requirements. Under these circumstances, it appears desirable that a code of Forest Regulations be prepared for each Province. In this code should be embodied all Rules made under the Act for such Province, as well as all sections applicable to it. (Section 5.)

15. Part II. treats of the classification of Forests, and of Forest Officers.

Ordinarily the provisions of the Bill are intended to apply to those Forests only which are either the property of Government, or in which Government has Forest rights.

In Forests which are the property of Government, the proprietary right of the State may be either absolute or limited. The proprietary right of Government is absolute, and not encumbered by any Forest rights of other persons in the Central Provinces and in Sindh. In the former Province this result has been attained by the operations of the settlement; in the latter the majority of the Forests are an inheritance of the Ameers of Sindh, who demarcated them as game preserves, and exercised absolute control in them.

But in most Provinces the proprietary right of Government is limited by the customary Forest rights of individuals or communities.

16. Forests, which are the property of other persons, but in which Government has Forest rights, are found in many Provinces. They are extensive in several districts of the Punjab, where, under the provisions of the settlement, the proprietary right in the land was given to the cultivators, the ownership of the trees only being reserved to Government.

Over private Forests, in which the State has no Forest rights, the control of Government will be exercised in special cases only, which are indicated in Sections 42 and 43.

17. The sections concerning Forest Officers have been inserted in the Bill with the view of giving a legal basis to the administrative organization of the department. In this matter I have followed the precedent of the Police Code, but have not entered into detail further than to define Forest Officers generally, and to designate the chief Forest Officer in each Province as Conservator of Forests.

18. Part III. treats of the demarcation of Forests. Power is proposed to be given to Local Governments to demarcate Forests, either as State Forests, or as Forests for the use of village, or other communities, or public institutions.

Within the limits of State Forests will be included such lands only as are the property of Government, but village Forests may be formed of any lands in which Government has Forest rights.

The demarcation of State Forests has been commenced in Bombay, Sindh, the Central Provinces, Oudh, the North-West, Coorg, Bengal and in the Punjab. The demarcation of Forests for the use of municipalities, villages and other communities, has nowhere yet been commenced, and the importance of this measure is hardly recognized. But I hope that it will eventually be possible to convince the local authorities that the demarcation of Forest lands and grazing grounds for the use of towns and villages, and the introduction in them

of a regular system of management, will greatly aid the development of a sound and satisfactory organization of agricultural and other communities. Those who are acquainted with the beneficial results which are the fruit of a thrifty and well arranged administration of the communal Forests in several countries of the Continent of Europe, will appreciate the importance of this measure.

19. When the first proposals for the demarcation of State Forests were made, they found favor in Bombay, Oudh and the Central Provinces only; in most other Provinces the scheme was considered as unnecessary or premature. And now there are hardly two different opinions on the subject. It does not therefore seem unreasonable to expect that eventually the formation of Village Forests will be regarded as an important and beneficial measure.

There is every prospect that a commencement in this respect will be made in the Kangra District of the Punjab. The protection and management of the *Shamlat* or communal Forests in that District, will require Rules similar to those under which the State Forests will be placed, and in the present state of things, it will be necessary that the Forest Officers for the management of these Forests should be appointed by the Local Government, though the cost of these establishments will be defrayed from the revenues of these Forests.

20. Parts IV., V. and VI. relate to customary rights in the Forests. These sections refer to demarcated Forests only; they cannot be made applicable to Forests, the boundaries of which have not been defined.

The following are the main provisions in this respect:—

First.—No fresh Forest rights shall accrue in any Forest, of which the boundaries have been notified by the Local Government.

Second.—No Forest rights will be recognized in a demarcated Forest, unless a formal claim is preferred within three years from the date when the boundaries of the Forest were notified.

Third.—Forest rights will be exercised in a demarcated Forest under certain restrictions, which are as follows:—

No Forest rights may be exercised in such portions of a Forest as have been closed under competent authority. The area of these closed portions must not, however, exceed one-third of the whole.

Such rights, and any Forest-produce obtained by the exercise of them, may not be alienated by sale or lease.

Fourth.—Roads and paths may from time to time be closed in demarcated Forests.

These provisions, if accepted, will constitute demarcated Forests a species of privileged property, whether they be the property of the State, or of communities, or of public institutions.

21. To what extent these provisions will interfere with the free exercise of the customary Forest rights without compensation. This interference, however, will only consist in limiting the area from which the Forest right-holders may provide themselves with the timber, wood, pasture and other Forest-produce which they have been in the habit of taking from the Forest; it will not necessarily diminish the supplies of these articles to the persons entitled thereto.

Interference to this extent is unavoidable if the protection and improvement of Communal Forests is intended, and it does not appear incompatible with a due regard for these customary rights. In the majority of cases, such interference with the Forest rights existing rights will be only temporary, for it is hoped that it will be possible, under the provisions of this Bill, and by the grant of suitable compensation to free most Forests of customary Forest rights. There may however be cases in which all attempts to effect an arrangement may break down, and in which the Forests will remain encumbered with customary rights. It is in such cases, which it is hoped will be of rare occurrence, that

Forest Department has not the power of closing from time to time a portion of the Forest, then the productiveness of such Forest cannot by any means be improved. By closing portions of it in rotation, the Forest will be made to produce more and better descriptions of wood, grass, bamboos and the like, and the people who have Forest rights will in reality benefit by the change, though at first some inconvenience may occasionally be felt by them. To provide compensation for this kind of interference, or for the closing of roads in demarcated Forests, would lead to endless petty claims, with which it would be difficult to deal, without such waste of time on the part of the Forest Officers, as would be quite incommensurate with the objects aimed at. The commutation and regulation of Forest rights, as provided in Part V., and operation which is made once only in each Forest, but claims for the inconvenience arising from the closing of roads, or from the closing of certain blocks of the Forest in rotation, would occur every year and every month, and there would be no end of these petty cases. And after all, whatever is done for the improvement of the Forest in this manner, is not only intended to promote the welfare of the country in general, but will equally and directly benefit every holder of Forest rights in the Forest.

22. For all interference, however, beyond the provisions of Part IV, fair and equitable compensation is provided. Such compensation will commonly consist in the grant of Forest rights in other lands, in the grant of land, or in the Government relinquishing Forest rights in other lands. The main object to be kept in view should invariably be to make such arrangements as will satisfy the actual requirements of the population in the vicinity of the Forests, and, considering that the demarcated Forests will as a rule be a small proportion only of the total Forest area, it will not generally be difficult to effect such an arrangement. Money compensation will, I trust, be necessary in exceptional cases only. But in some cases it may be found expedient to remit or to reduce taxes, or other Government demands, whenever their amount has been fixed on the understanding that the people would have the free and unrestricted exercise of Forest rights.

23. If these principles are clearly established, it will then be possible, without the risk of injustice and oppression, to give to Local Governments the power to order the regulation, commutation or extinction of those Forest rights, the unrestricted exercise of which may be incompatible with the conservancy of the Forests.

This power is proposed to be given in Section 29; and in Sections 31 to 33 the mode of procedure in this matter is prescribed. In such cases it is proposed that the Conservator of Forests shall, in the first instance, make definite proposals, and shall obtain the sanction of the Local Government thereto. On the ground of these proposals, he shall then endeavour to effect an agreement with the parties interested. If these endeavours fail, the matter shall be referred for decision to a special Commission, the appointment and duties of which are provided for in Part VI.

24. Besides the decision of matters connected with regulating, commuting and extinguishing Forest rights, the following duties are to be entrusted to this Commission:—

First.—To determine the nature and amount of compensation to be given in the case of any expropriation of Forest lands in which Government has Forest rights. In matters of this description, as well as in regulating and commuting Forest rights, it has been proposed to make the decision of the Commission subject to confirmation by an officer appointed by the Local Government in that behalf.

Second.—The settlement of boundary disputes.

Third.—The definition of existing Forest rights.

With regard to these matters, the decision of the Commission should be final, and not subject to any appeal or confirmation.

25. It has also been provided that in case it may not be deemed necessary by the Local Government to appoint a Commission for these purposes, the powers of the Commission may be exercised by the ordinary Civil Courts. As a Rule, however, it will probably be preferable to appoint a Commission for this purpose in each Province. The enquiries will necessarily be of a peculiar character, and in the course of their proceedings the members of the Commission will gradually make themselves familiar with many details, the knowledge of which is an indispensable condition for dealing with these matters in a satisfactory manner. It is hoped that if matters are properly managed, and the demarcation of State and other Forests is steadily proceeded with, the labors of these Commissions for the settlement of Forest rights in the different Provinces may be completed within a limited period.

26. Part VII. treats of Forest Rules to be made under this Act. These Rules are intended to provide for the demarcation and maintenance of boundaries, and for the protection and the management of any Forests to which this Act will apply. A special clause has been inserted to give authority to make different Rules for different classes of Forests.

Power is also proposed to be given to make Rules for the protection of fish and game in the Forests to which this Act applies. This provision is permissive. Should hereafter any general legislation for the protection of fish be decided upon, no Rules to this effect need be made under the Forest Act. In demarcated Forests, Rules of this nature appear called for, in order to secure the entire management of these estates being in the hands of Forest Officers.

27. Whatever Rules are made under Section 32, they will not interfere with the exercise of existing Forest rights, further than is prescribed by the provisions of Part IV., regarding the exercise of Forest rights in demarcated Forests.

28. Part VIII. relates to the control over lands and Forests which are not the property of Government. Sections 42, 43 and 44 relate to lands in which Government has no Forest rights; they provide for the protection of Forest on such lands when its maintenance is required for the public benefit, and they give authority for the expropriation of such lands if required for Forest purposes. Sections 45 to 47 contain provisions for the expropriation of Forests in which Government has Forest rights. As explained above, it is proposed to entrust the fixing of compensation to a Commission in those cases in which the Conservator is unable to conclude an agreement with the parties interested.

29. Part IX. treats of the control of timber and other Forest-produce in transit, and of drift timber.

This part contains a series of substantive provisions, and a Section (50) giving power to make Rules for the control of timber and other Forest-produce while in transit by land and water. This section is intended, among other things, to give authority to require the production of passes, or other proof of ownership for timber and other Forest-produce from whatsoever source it may have been brought. The want of a provision to that effect has been felt in Bombay, where the Government Forests are frequently much interlaced with private Forest lands. In connection with the third head of Section 50 the question has been considered, whether in its place, or in addition to it, any substantive provisions should be inserted in the Bill, to regulate the sale of timber and Forest-produce, and the collection of Forest revenue generally.

In the French Code *forestier*, four chapters are devoted to the conditions under which the timber standing in the Forest shall be sold (Section III), the Rules to be observed in felling timber shall be cut and removed (Section IV), the control to be exercised over the operations of the purchasers of such timber (Section V), and the rules which shall regulate the lease of pasture in the forests (Section VI). These provisions in the French Forest Law are found necessary to regulate transactions, the circumstances of these transactions rendering other provision, not sufficiently provided for by the ordinary laws of the country.

A case has lately arisen in this country which at first sight would seem to demand some provision of a similar character. A Forest Officer accepted payment for a quantity of Government timber to the amount of upwards of Rs. 30,000, and decamped with the money leaving Government liable to delivery of the timber. But though a provision might be inserted in the Bill, providing that all sales purporting to have been effected by persons not specially authorized, will be null and void, and that no payment made to persons other than those specially authorized will be held to give any claim to the delivery of timber or Forest-produce, such provisions would not protect Government against loss in all cases, nor can any such provision be a safeguard against fraud. It has therefore been thought sufficient to provide, in the third head of Section 39, that certain Forest Officers may, by the Conservator, be authorized to sell timber and other Forest-produce, and to receive Forest revenue.

30. Among the sections containing substantive provisions, Section 49 authorizes the levy of duty on timber or Forest-produce in transit; the necessity of this provision requires no explanation.

Section 54 lays down the principle that all timber or wood found adrift or stranded in any river or water in British territory, shall be deemed to be the property of Government, unless any person prove his right and title thereto, and it prescribes the procedure with regard to the disposal of such wood and timber, the main provisions of which are that periodical notices inviting claimants shall be published of all drift and unclaimed timber which may be lying at any Government Timber Depôt, that these notices shall run not less than three months, that in the event of no claimant appearing during the time fixed, the timber shall revert to Government, that questions as to the ownership of such timber may be decided by Forest Officers specially authorized thereto, but that these Forest Officers shall have the option to refer claimants to the ordinary Civil Courts. Finally, section 56 provides for the appointment of special Courts for the decision of claims to the ownership of timber generally. This section is required to legalize the constitution of such Courts in Burmah; it may become necessary in other Provinces also (Bengal, Punjab, and the North-West), where timber is imported from Foreign territory.

31. In Parts X. and XI., on the prevention and punishment of offences, several new provisions have been introduced, which were wanting in the Act of 1865.

Section 58 requires assistance to be given in the detection and extinction of jungle fires by all persons who exercise Forest rights in any Forest, or hold a lease of timber, pasture or other Forest-produce.

Sections 59 and 60 legalize the establishment of cattle-pounds by Forest Officers, and authorize the seizure and detention of cattle trespassing in any Forest.

32. The punishments provided by the Act are as follows:—

First.—Fine not exceeding Rs. 500, and in default of payment, simple imprisonment for a term not exceeding six months.

Second.—Seizure and, except in the case of Government property, confiscation of any timber or other Forest-produce unlawfully obtained, or of implements and other moveable property used in committing any offence against the Act, or against the Rules made under it, the timber or other Forest-produce being either restored to Government or other lawful owner, or sold on account of Government: confiscation may be enforced in addition to fine.

Third.—In the case of wilful neglect of duty by Forest Officers who are not gazetted officers, fine to the amount of one month's pay by the Conservator.

10

35. In section 74 it has been provided that no charge for an offence against any provision of the Act, or of the Rules made in pursuance thereof, can be instituted after six months have elapsed from the time when such offence was discovered. It appears necessary to fix the date of discovery as the starting point, as the Forests in most Provinces are scattered over a wide extent of country, and are frequently all but inaccessible during a considerable part of the year.

The last section 75, which requires the sanction of the Local Government to the prosecution of any gazetted Officer, is framed in accordance with section 197 of the Code of Criminal Procedure.

Till here

Rev 3822/20

A BILL TO PROVIDE FOR THE MANAGEMENT AND PRESERVATION OF FORESTS.

CONTENTS.

Preamble.

PART I.

PRELIMINARY.

Sections.

1.—Commencement and short title of the Act.
2.—Act VII of 1865, repealed.
3.—Extent of Act.
4.—Continuation of Rules made under Act VII of 1865.
5.—Code of Forest Regulations may be prepared.
6.—Interpretation Clause.

PART II.

OF THE CLASSIFICATION OF FORESTS AND OF FOREST OFFICERS.

7.—Forests to which this Act applies.
8.—Forests to which certain provisions only apply.
9.—Forest Officers.
10.—Conservator of Forests.
11.—Forest Officers not to engage in other employment.

PART III.

OF THE DEMARCATION OF FORESTS.

12.—State Forests.
13.—Communal Forests.
14.—Demarcated Forests.
15.—Boundary disputes to be referred to Conservator of Forests.
16.—When to be referred to a Commission.
17.—Conservator to appoint date for marking out the boundary.
18.—Record of the boundary.

PART IV.

OF FOREST RIGHTS IN DEMARCATED FORESTS.

19.—Fresh Forest rights not to accrue.
20.—Forest rights how to be claimed.
21.—Claims to Forest rights when not to be admitted.
22.—Claims how to be dealt with by Conservator of Forests.
23.—Record of Forest rights admitted.
24.—Roads in demarcated Forests.
25.—Portions of demarcated Forests may be closed.
26.—Forest rights not to be exercised in any closed portion of a demarcated Forest.
27.—Forest rights and produce obtained by the exercise of Forest rights not to be alienated.
28.—Compensation not to be claimed.

PART V.

OF THE REGULATION, COMMUTATION, AND EXTINCTION OF FOREST RIGHTS IN DEMARCATED FORESTS.

Sections.

29.—Regulation, commutation, and extinction of Forest rights.
30.—Matters to be determined when Forest rights are regulated.
31.—Proposals to be made by Conservator.
32.—Proposals to be communicated to persons interested.
33.—Proposals to be referred to a Commission.

PART VI.

OF COMMISSIONS APPOINTED FOR THE SETTLEMENT OF FOREST RIGHTS.

34.—Functions of the Commission.
35.—Procedure of Commission.
36.—Procedure in case a Commission is not appointed.
37.—Decisions of Commission, by whom to be confirmed.
38.—Orders of Commission to be final.

PART VII.

OF FOREST RULES TO BE MADE UNDER THIS ACT.

39.—Local Governments may make Rules in respect of Forests.
40.—Forest rights not affected by the Rules.
41.—Rules when to have the force of law.

PART VIII.

OF GOVERNMENT CONTROL OVER LANDS AND FORESTS, THE PROPERTY OF COMMUNITIES OR OTHER PERSONS.

42.—Protection of Forests for special purposes.
43.—Such Forests when to be demarcated.
44.—Expropriation of land in which Government has no Forest rights.
45.—Expropriation of land in which Government has Forest rights.
46.—Proposals for compensation.
47.—Proposals to be referred to the Commission.

PART IX.

OF THE CONTROL OF TIMBER IN TRANSIT, AND OF BRITH TIMBER.

48.—Streams not to be closed or blocked up.
49.—Duty to be levied on timber.
50.—Local Government may make Rules in respect of timber and other forest-produce in transit.
51.—Property marks on timber.
52.—Timber how protected.
53.—Salvage services.
54.—Dead and stranded timber and wood, how to be dealt with.
55.—Claims to drift timber, how decided.
56.—The Local Government may appoint special Courts for the decision of claims to the ownership of timber and other Forest-produce.

PART X.

OF THE PREVENTION OF OFFENCES AND CATTLE TRESPASS.

Sections.

57.—Duties of Police and Forest Officers.
58.—Duties of persons who have Forest rights.
59.—Power of seizing and detaining cattle.
60.—Establishment of cattle-pounds.

PART XI.

OF PUNISHMENTS AND CONFISCATIONS UNDER THIS ACT.

61.—Punishments for offences against this Act.
62.—Abetment of offences.
63.—Rules under this Act not to prevent the operation of any other Law.
64.—Forest Officers liable to punishment.
65.—Arrest and seizure in case of infringement of Rules.
66.—Procedure in case of arrest.
67.—Seizure of Forest-produce and implements.
68.—Confiscation of Forest-produce and implements.
69.—Portion of proceeds may be awarded to informer.
70.—Penalty for vexatious seizures and arrests.
71.—Enforcement of confiscations and penalties under Rules.
72.—Remission of penalties.
73.—Limitation of suits.
74.—Period within which charges to be brought.
75.—Prosecution against Forest Officers.

Start here

A Bill to provide for the management and preservation of Forests.

WHEREAS it is expedient to provide for the better management and preservation of Forests and lands wherein rights are vested in Her Majesty's Secretary of State for the purposes of the Government of India, as well as for other matters; It is enacted as follows:—

Preamble.

PART I.

PRELIMINARY.

1. This Act shall come into operation on the first day of 1870, and may be cited as the "Forest Act, 1870."

Commencement and short title of the Act.

2. Act No. VII of 1865 (to give effect to Rules for the management and preservation of Government Forests) is hereby repealed.

Act VII of 1865, repealed.

3. This Act shall extend to the whole of British India, except the territories under the Governments of the Governors of Madras and Bombay in Council; and it shall be lawful for these Governors in Council respectively by notification in the official Gazette to extend this Act to the territories under their respective Governments.

Extent of Act.

4. All Forest Rules made under the Act No. VII of 1865, or otherwise legalized, shall have the force of law, and continue in force until the Government of India shall otherwise order.

Continuation of Rules made under Act VII of 1865.

The Local Government may from time to time, with the sanction of the Government of India, and consistently with this Act, alter or add to such Rules.

5. In any Presidency, Province or place in which this Act shall take effect, the Local Government may, in case such shall appear expedient, cause all such sections of the Act, applicable to such Presidency, Province or place as may enjoin or prohibit any act or omission, or impose any penalty, to be collected and published, together with any Rules that may be made under this Act, ~~or otherwise for purposes~~, in order that such collection of rules and provisions may form a code of Forest Regulations applicable to such Presidency, Province or place.

Code of Forest Regulations may be prepared.

or legalized

Such code of Forest Regulations shall be translated into such vernaculars of such Presidency or Province as the Local Government thereof may from time to time direct.

6. In this Act, unless there be something repugnant in the subject or context,—

Interpretation-clause.

Forest shall mean any tract of country covered with trees, brushwood or grass, and shall include such waste or cultivated lands, roads, streams and other waters as may be situated within such tract;

The word *cattle* shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats, and swine;

Forest rights shall mean the right of ownership in trees, timber, bamboos, brushwood, grass, or other produce of a Forest; the right to prohibit the cutting, burning or using of trees, timber, bamboos, brushwood, grass or other produce of a Forest; the right to prohibit the pasture of cattle in a Forest; the right to cut, use or remove any timber, trees, bamboos, branches, leaves, brushwood, grass or other produce of a Forest, and the right of pasturing cattle in a Forest;

Government Timber Depôt shall mean any place which the Local Government shall from time to time appoint for the storing of wood and timber, being the property of Government, or for the collection of any drift or unmarked wood and timber.

PART II.

Of the classification of Forests and of Forest Officers.

7. ~~The provisions of this Act shall be in force in such the Forests established or existing~~ ~~shall apply to the following classes of Forests~~

Except where otherwise expressly provided, this Act shall apply to the following classes of Forests only, that is to say,

First, Forests, the property of Government in which the proprietary right of Government is absolute ~~and unincumbered~~;

Second, Forests, the property of Government in which the proprietary right is limited ~~or incumbered~~ by the existence of other Forest rights;

Third, Forests which are the property of villages or other communities, public institutions, religious establishments, private individuals, or other persons, in which Government has Forest rights.

8. ~~Except when otherwise provided in this Act, all Forests other than those described in the last preceding section shall be at the absolute and unrestricted disposal of the owners thereof.~~

Forests to which certain provisions only apply.

9. The control, inspection, management, and protection of any Forest to which this Act applies, or the control and management of any matters to which this Act relates, shall be vested in officers to be called Forest Officers. The Local Government may invest any person with all or any of the powers which may be exercised by a Forest Officer under this Act.

Forest Officers.

10. The chief Forest Officer in any Presidency, Province or place, or part of a Presidency, Province or place in which this Act shall take effect, shall be styled "Conservator of Forests." The powers of the Conservator of Forests under this Act may be exercised by such Forest—or other Officer as the Local Government may from time to time authorize in that behalf.

Conservator of Forests.

11. No Forest Officer shall engage or be concerned in trading with timber, wood or other forest-produce, nor shall he have any interest, direct or indirect, in any lease of any Forest, or any contract for working any Forest, whether in British or Foreign territory in India; nor shall he engage in any employment or office other than his duties under this Act, unless expressly permitted to do so in writing by the Local Government.

Forest Officers not to engage in other employment.

PART III.

Of the demarcation of Forests.

12. The Local Government may from time to time notify the boundaries of any Forest of the first and second classes described in section 7, and may declare the same to be a State Forest. If in the judgment of the Local Government such Forest is not sufficiently demarcated by roads, streams, or other existing boundaries or land-marks, the Local Government shall from time to time cause the same to be marked out by metes and bounds, and the boundaries so fixed shall be notified in such manner as the Local Government may direct.

State Forests.

13. The Local Government may from time to time notify the boundaries of any Forest to which this Act applies, and may

Common Forests.

of the first, second or third class specified in section 7

assign all or any of the produce of such Forest for the use of village or other communities, or for any other purpose. If in the judgment of the Local Government such Forest is not sufficiently demarcated by roads, streams, or other boundaries or land-marks, the Local Government shall from time to time cause the same to be marked out by metes and bounds, and the boundaries so fixed shall be notified in such manner as the Local Government may direct.

Demarcated Forests.

14. Forests, the boundaries of which have been notified under section 12 or 13, may be called "demarcated Forests."

Boundary disputes to be referred to Conservator of Forests.

15. In the event of any difference or dispute arising as to the boundary line of any demarcated Forest, such difference or dispute shall be referred to the Conservator of Forests, who shall endeavour to adjust the same by agreement with the parties interested.

When to be referred to a Commission.

16. If the matter in dispute cannot be arranged by mutual agreement, it shall be referred by the Conservator of Forests to the decision of a Commission, to be appointed as hereinafter provided.

Conservator to appoint date for marking out the boundary.

17. When the boundary line shall have been determined either by agreement or by decision of a Commission as aforesaid, the Conservator of Forests shall fix a day for marking out the boundary accordingly, of which public notice shall be duly given.

Record of the boundary.

18. On the day appointed the boundary shall be marked out by two or more Forest Officers specially appointed by the Conservator of Forests in that behalf and a record of the proceedings, together with a map showing the boundary lines determined as aforesaid, shall be prepared. When any boundary line has been determined by a Commission as aforesaid, the decision in writing of such Commission shall form part of the record. Such record and map, after being attested by the official signature of the Forest Officers appointed as aforesaid, shall be deposited in the office of the Conservator of Forests. An attested copy of the record and map shall also be deposited in the office of the Collector or other chief revenue officer of the district or districts in which the Forest or any part thereof is situated, such map, record, and attested copy of the same

shall be conclusive evidence of the position of the boundary line determined as aforesaid.

PART IV.

Of Forest rights in demarcated Forests.

Fresh Forest rights not to accrue.

19. From and after the date on which the boundaries of any demarcated Forest shall have been notified, no fresh Forest rights whatsoever shall accrue or be acquired in such Forest.

Forest rights how to be claimed.

20. When the boundaries of any Forest have been notified under sections 12 and 13, a notification, ~~setting forth the manner in which Forest rights may be claimed and recorded in the said Forest, and addressed to persons generally living, villages or hamlets situated within the limits of such Forest or within a distance of ten miles from the boundaries of such Forest.~~

All persons claiming to have Forest rights within the limits of a demarcated Forest shall submit their claim to such Forest or other Officer as the Local Government may from time to time appoint in that behalf. Such claims may be submitted by the headman or other inhabitant of the village or hamlet on behalf of himself and of all other inhabitants claiming Forest rights in the said Forest. All claims received by the Officer appointed on that behalf shall be forwarded to the Conservator of Forests.

Claims in Forest rights, when not to be admitted.

21. No such claim shall be admitted unless it is preferred within a period of three years from the date on which the boundaries of the Forest were notified, and unless the person preferring the same shall have been in the habitual exercise of the right claimed at the time when the boundaries of the Forest were notified.

Claims how to be dealt with by Conservator of Forests.

22. On receipt of any statement of claim, the Conservator of Forests may allow the same as it stands, or, if he see reason for objecting thereto, shall endeavour to adjust the matter by agreement with the parties interested. If the claim be not allowed by the Conservator, nor adjusted by agreement as aforesaid, the Conservator shall refer the same for decision by a Commission to be appointed as hereinafter provided.

23. So soon as the claim shall have been allowed by the Conservator of Forests, or adjusted by agreement of the parties, or decided by a Commission, a record of the persons entitled to such Forest rights, and of the nature and extent of the rights so determined, shall be reduced to writing and signed by the Conservator of Forests, or in case of the decision by a Commission, by the members of such Commission.

Record of Forest rights admitted.

Such record shall be conclusive evidence of the nature and extent of the Forest rights admitted. It shall be deposited in the office of the Conservator of Forests, and an attested copy of the same shall be deposited in the office of the Collector or other chief revenue officer of the district or districts in which the Forest, or any part of it, is situated.

24. In any demarcated Forest the Conservator of Forests may, with the previous sanction of the Local Government, determine what roads and pathways shall be authorized for public traffic, and may cause all other roads and pathways to be closed either permanently or for a time only.

Roads in demarcated Forests.

Public notice of the closing of any existing road or pathway shall be duly given.

25. It shall be lawful for the Conservator of Forests, with the sanction of the Local Government, from time to time, to close such portions of any demarcated Forest as may be deemed necessary for the protection and improvement of the said Forest.

Portions of demarcated Forests may be closed.

~~The portions closed at any one time shall not exceed one-third of the whole area of such Forest.~~

Public notice of the situation of the portions closed shall be duly given, and temporary marks shall be put up and maintained to indicate the boundaries of the portion so closed.

26. During such time as any portion of a Forest shall be closed, no person having Forest rights shall exercise the same within such portion, and no person shall cut or collect any timber, wood, grass or other Forest produce, or take or pasture any cattle therein.

Forest rights not to be exercised in any closed portion of a demarcated Forest.

shall be held to prevent a Sale, lease, or other alienation temporary or permanent, made by an Officer of any Court of Justice of pursuant to any process of the Court, nor any Sale of Forest produce made on behalf of Government.

27. Except with the permission in writing of the Conservator of Forests, no Forest rights in any demarcated Forest, whether vested in communities or other persons, shall be alienated by sale, lease, mortgage or other contract; and no Forest-produce obtained by the exercise of such Forest rights shall be sold or transferred to any person not entitled to the exercise of such Forest rights.

Forest rights and produce obtained by the exercise of Forest rights, not to be alienated.

Nothing in this Section

28. No person shall be entitled to compensation on account of anything done, or prohibited to be done, in pursuance of sections 24, 25, 26, and 27.

Compensation not to be claimed.

PART V.

Of the regulation, commutation, and extinction of Forest rights in demarcated Forests.

29. In any demarcated Forest, the Local Government may, when such may appear necessary, order the regulation, commutation or extinction of any or all Forest rights: Provided that in all cases where any existing Forest rights of communities or other persons are affected or abridged by such orders, fair and equitable compensation shall be given to such communities or other persons. Such compensation shall consist either in the grant of land or of Forest rights in other Forests or lands, or in the payment of a sum of money, or in the abandonment of the rights of Government in any Forest or other lands, or in the remission or reduction of any taxes or of any other Government demand. The nature and amount of such compensation shall be determined in the manner hereinafter provided.

Regulation, commutation, and extinction of Forest rights.

Proviso.

30. Whenever the regulation of any Forest rights shall be ordered under the last preceding section, such regulation shall consist in determining the following matters according to the nature of the right to be regulated:—

Matters to be determined when Forest rights are regulated.

The quantity and description of timber or wood to be delivered to those entitled thereto annually or at stated seasons;

The time and place at which requisitions for such timber or wood shall be made, and the time, place and mode of delivering the same;

The extent and situation of the portions of Forest which shall be assigned annually for the lopping of branches, the cutting of grass, and the collecting of other Forest-produce, to those entitled to such rights;

The extent and situation of the portions of Forest which shall be assigned every season to those entitled thereto for the pasturing of cattle, and the number of heads of cattle which may be sent into the Forest;

The date on which the season for pasturing cattle shall commence and close.

Proposals to be made by Conservator.

31. Whenever the Local Government may consider it necessary that any or all Forest rights exercised in a demarcated Forest shall be regulated, commuted or extinguished, the Conservator of Forests shall be directed to prepare a statement of the existing Forest rights, and to frame proposals for regulating, commuting or extinguishing the same, and for the compensation to be granted to any person entitled thereto.

Proposals to be communicated to persons interested.

32. The statement and proposals of the Conservator shall be submitted to the Local Government, and if approved shall be communicated to all parties interested. If the said parties shall consent thereto, or otherwise if any objection made thereto be adjusted by mutual agreement, such agreement being approved by the Local Government, a record of the terms of such consent or agreement shall be reduced to writing, and be attested by the official signature of the Conservator of Forests. Such record shall be conclusive evidence of the terms of such agreement or consent. It shall be deposited in the office of the Conservator of Forests, and an attested copy of the same shall be deposited in the office of the Collector or other chief revenue officer of the district or districts in which the Forest, or any part of it, is situated.

Proposals to be referred to Commission.

33. If the proposals of the Conservator are not agreed to, or if the objections thereto cannot be adjusted by mutual agreement, the Conservator shall refer the matter to the decision of a Commission, to be appointed as hereinafter provided.

The decision of the Commission shall be recorded, and the record deposited in the office of the Conservator of Forests in manner last provided in the last preceding section, and shall be conclusive evidence of the terms and conditions under which the

rights to be regulated may be exercised, and of the compensation granted in respect of such regulation: Provided always that if in any case the decision of the Commission shall award such amount of compensation that the Conservator of Forests shall deem it better to leave such Forest rights unregulated, uncommuted or unextinguished than to give such compensation, it shall be lawful for him, with the sanction of the Local Government, to decline to give the compensation awarded as aforesaid, and in such case the person entitled to such Forest rights shall continue to enjoy the same rights without such regulation or abridgment.

Proviso.

PART VI.

Of Commissions appointed for the settlement of Forest rights.

Functions of the Commission.

34. The Local Government may from time to time appoint three persons to form a Commission, and may determine the districts within which the Commission shall have jurisdiction. If after the appointment of the Commissioners aforesaid, any one or more members thereof shall become incapacitated by sickness or other cause, the Local Government shall appoint some other person or persons to supply the place of the member or members so incapacitated. The Commission shall have power, subject to the confirmation hereinafter provided, to decide and determine the following matters, that is to say,—

First, disputes regarding the boundary lines of demarcated Forests;

Second, the existence, nature, and extent of Forest rights in demarcated Forests;

Third, the manner in which the exercise of existing Forest rights shall be regulated, commuted or extinguished, and the nature and amount of compensation to be granted for the same;

Fourth, the determination of the nature and amount of compensation to be granted to the owners of any Forest of the third class described in section 7, which may be taken possession of on behalf of Government in the manner hereinafter prescribed.

c

Whenever a Commission shall be appointed as aforesaid, the jurisdiction of the ordinary civil Courts and revenue authorities shall cease in respect of all matters provided for in this section within the limits fixed for the jurisdiction of such Commission.

Procedure of Commission.

35. The decision of all matters referred to the Commission thus appointed shall rest with the majority of such Commission. All decisions shall be communicated to the parties interested. The Commission shall have power to compel the attendance of any witness or other person whom they may require to examine, and to cause the production of any document. The provisions of the Code of Civil Procedure shall be applicable to the summoning of witnesses or parties, the production of documents, and the record of evidence by the Commission; and generally the procedure of the Commission shall, as far as possible, be governed by the provisions of the Code of Civil Procedure.

Procedure in case a Commission is not appointed.

36. If in any case it shall not be deemed necessary by the Local Government to appoint a Commission as aforesaid ~~in any proceeding, instance or reference~~, then the principal Court of original civil jurisdiction of the district in which the Forest or part thereof is situated shall exercise the powers of the said Commission in respect of all matters cognizable thereby, and shall exercise such powers subject to such confirmation as is hereinafter provided in respect of the decision of the Commission.

Decision of Commission, when to be confirmed.

37. No appeal shall lie from any decision or order of the Commission, or of the Court acting in place of such Commission under section 36, but all orders and decisions touching any of the matters described in the third and fourth clauses of section 34 shall require the confirmation of such officer as the Local Government may from time to time appoint in that behalf.

Orders authorizing to Commissioners or Court to be final.

38. All decisions and orders of such Commission when confirmed as hereinbefore prescribed, and all orders of the confirming officer modifying or reversing the order or decision of the Commission or Court, shall be final and have the force of law.

Note. This Section will require some modification as it now stands if there is to be a final appeal to the Confirming Officer.

PART VII.

Of Forest Rules to be made under this Act.

Local Governments may make rules in respect of Forests.

39. The Local Government may from time to time, with the sanction of the Government of India, make Rules consistent with this Act in respect of any Forests ~~to which this Act applies as the Notification~~ and may from time to time, with such sanction as aforesaid, alter, cancel and add to such Rules. Different Rules may be made according as the boundaries of the Forest to which the Rules are intended to apply, have been notified under sections 12 and 13, or have not been thus notified, and according as such Forest is of one or other of the classes described in section 7.

of the first, Second or Third classes specified in Section 7.

These Rules may provide for the following matters:—

First, the mode of procedure in demarcating Forests, the erection and maintenance of boundary marks, the clearing and maintenance of boundary lines, the alienation by sale, mortgage, or lease of Forests;

Second, the protection of Forests by prohibiting the marking, girdling, felling, and lopping of all growing trees, shrubs and plants, or of certain kinds only, and of all kinds of injury thereto, by prohibiting the carrying or kindling of fire within the Forests; by prohibiting the collecting and removing of leaves, fruits, grass, resin, wax, honey, elephants' tusks, horns, skins and hides, stones, lime or any other produce of such Forests; by prohibiting the carrying of axes, saws or other implements for cutting wood or timber, except on authorized roads within the limits of the Forests; by prohibiting the ingress into and the passage through such Forests, except on authorized roads and paths; by prohibiting cultivation and the burning of lime and charcoal, and the pasture of cattle within, or the passage of cattle through, such Forests;

Third, the management and working of the Forests, by determining the rules and conditions under

which timber, wood, trees, shrubs, bamboos, and other produce of Forests shall be cut, removed and sold, or the pasture of cattle shall be leased; by giving authority to the Conservator of Forests from time to time to appoint Forest Officers for the purpose of selling timber, wood or other produce of such Forests, or of leasing the right of cutting, collecting or removing timber, wood, or other Forest-produce, or of pasturing cattle in the Forests; by fixing the dues to be paid for the pasture of cattle or the collection or use of any produce of such Forests; by giving authority to the Conservator of Forests, from time to time to appoint Forest Officers to receive monies and dues for the sale of timber, wood or other Forest-produce, or for the lease of pasture, or for the use of any produce of such Forests;

Fourth, the protection of fish and game within the Forests, by prohibiting the capture and destruction of fish during certain seasons of the year; by prohibiting the use for fishing of certain descriptions of nets, baskets or other implements; by regulating or prohibiting the construction and use of weirs, dams and other appliances for the capture of fish; and by prohibiting or restricting the use of drugs or other substances for the purpose of killing or intoxicating fish in rivers, streams, ponds and tanks; by prohibiting the taking of eggs of certain kinds of birds; by prohibiting the hunting, shooting, capture or destruction of certain kinds of game during certain seasons of the year; by regulating or prohibiting the capture or destruction of elephants or other animals at all times of the year.

Power not to affect right of way or bridge any existing Forest rights of individuals or communities otherwise than as provided for by sections 19 to 33, both inclusive, and all such Forest

30. No Rule made under section 29 shall be held to affect or to have affected the right of way or a bridge any existing

rights may, subject to the provisions aforesaid, be exercised, notwithstanding any Rules that may be framed under the section 29 aforesaid.

Rules when to have the force of law.

41. Rules made under section 29 when confirmed by the Government of India, and published in the official Gazette, shall have the force of law.

PART VIII.

Of Government control over Lands and Forests, the property of communities or other persons.

Protection of Forests for special purposes.

42. When such may appear necessary, the Local Government may, with the sanction of the Government of India, by notification in the official Gazette, prohibit the clearing, felling or burning of the trees, bamboos, brushwood or grass in any Forest, or part of a Forest, when the maintenance of such Forest appears necessary for the following reasons:—

First, for the preservation of the soil on the tops, ridges, slopes, and in the valleys of mountain ranges, and for protection against landslips and avalanches;

Second, for the protection of the banks of mountain-streams, rivers, and other waters;

Third, for the maintenance of a water-supply in springs and streams;

Fourth, for the protection of any land against shifting and moving sands;

Fifth, for the protection of roads, bridges, railways, and other lines of communication;

Sixth, for the better preservation of the public health in the vicinity of such Forest.

This section shall be applicable to all Forests as enumerated in sections 7 and 8. And the prohibition provided for in this section shall be enforced, notwithstanding any Forest rights or other privileges to the contrary.

Such Forests when to be demarcated.

43. Whenever the clearing, felling or burning of any Forest or part of a Forest under section 42 is prohibited, and whenever the nature and extent of such Forest shall in the judgment of the Local Government render such a course necessary, it shall be lawful for the said Local Govern-

ment, with sanction as aforesaid, to demarcate such Forest or part of the Forest, and declare the same to be subject to all or any provisions of this Act, and to all or any of the Rules made under the same.

If in such a case the Local Government shall deem it necessary for the better protection and management of such Forest, the same may be placed in charge of such Forest—or other officer as the said Local Government may appoint in that behalf:

Provided always that the net proceeds of the management of such Forest shall be paid to the owner of the Forest at such times as the Local Government may direct.

Expropriation of land in which Government has no Forest rights.

44. The Local Government may, when such may appear necessary, direct that possession shall be taken on behalf of Government of Forests or lands, the property of communities or other persons in which Government has no Forest rights. In such cases the provisions of Act VI of 1857, or such other Act for the acquisition of land for public purposes as may be in force at the time, shall be followed as regards the mode of procedure in taking possession of such land, and the compensation to be paid to the proprietors or other persons having a beneficial interest in the land. Such Forests or lands may be rendered subject to the provisions of this Act, and declared to be State Forests.

Expropriation of land in which Government has Forest rights.

45. The Local Government may, when such may appear necessary, direct that possession be taken on behalf of Government of any Forest, the property of communities or other persons in which Government has Forest rights. In such cases fair and equitable compensation shall be given to the owners of such Forest either by relinquishing the rights of Government in some other Forest or land, or by the grant of land, or by the grant of Forest rights in other Forests or lands, or by the payment of a sum of money, or by the remission or reduction of taxes or any other Government demand, or by any of these methods.

Proposals for compensation.

46. When the Local Government shall direct that possession be taken of any Forest under section 45, the Conservator of Forests shall prepare a statement of the situation and boundaries of the Forest proposed to be taken, of the owners and others having Forest rights or other beneficial interest in the Forest, of the nature and extent of the

Forest rights of Government in the Forest, and of the compensation proposed to be given, and shall submit the same to the Local Government. Such statement and proposals, if approved, shall be communicated to all parties interested. If the said parties shall consent thereto, or otherwise if any objection made thereto be adjusted by mutual agreement, such agreement being approved by the Local Government, a record of the terms of such consent or agreement shall be drawn up, and compensation given accordingly.

Proposals to be referred to the Commission.

47. If the proposals of the Conservator are not agreed to, or the objections thereto cannot be adjusted by mutual agreement, the Conservator shall refer the matter to the decision of a Commission appointed as provided in section 34, and the nature and amount of compensation shall be determined by such Commission, and on the decision being communicated to the Conservator of Forests, compensation shall be given to the parties interested in accordance with such decision.

Proviso.

Provided always that if in any case the decision of the Commission shall award such amount of compensation that the Conservator of Forests, acting with the sanction of the Local Government, shall deem it better that possession be not taken of such Forest, it shall be lawful for him to decline to give the compensation awarded as aforesaid, and in such case the Forest shall continue in the occupancy of the owner subject to the provisions of this Act.

PART IX.

Of the control of timber and other Forest produce in transit, and of drift timber.

Streams not to be closed or blocked up.

48. The Local Government may from time to time, by notification in the official Gazette, prohibit the closing or obstruction for any purpose whatsoever of the channel or banks of any river, stream or other water which is used for the transport of timber or other Forest-produce, whenever such closing or obstruction is likely to interfere with the transport of such timber, wood or other Forest-produce.

Duty to be levied on timber.

49. The Government of India may authorize the levying of duty on timber or other Forest-produce brought from any Forests situated within British territory, from Forests in the dominions of Princes and

States in India in alliance with Her Majesty, or from other Foreign territory, and may determine the rates of such duty.

And Government shall have a lien on all such timber or other Forest-produce for the payment of such duty, and in the event of such duty not being paid and adjusted within a certain time to be fixed by the Local Government, the timber may be confiscated.

Local Government may make Rules in respect of timber and other Forest-produce in transit.

50. The Local Government may from time to time, with the sanction of the Government of India, make Rules consistent with this Act for the control of timber and other Forest-produce while in transit by land or water within certain territorial limits, whether brought from Forests in the dominions of Princes or States in alliance with Her Majesty, or from other Foreign territory, or from any Forest within British territory—

By regulating the mode in which such timber or other Forest-produce shall be carried or floated by land or water; by requiring the person in charge of such timber or Forest-produce to produce a written pass or other sufficient proof of ownership; by determining the persons who shall be authorized to grant such passes; by prescribing the forms of such passes; by requiring the stoppage of all timber or Forest-produce at certain stations for the purpose of being examined, and levying the dues or revenues lawfully payable thereon; by prescribing the form in which the arrival of such timber or Forest-produce at such stations shall be reported by the owner or person acting on behalf of the owner; by determining the mode and time of removal of timber or Forest-produce from such stations by fixing the rates to be paid for timber not removed within the time fixed for its removal; by regulating the manner in which property-marks shall be affixed to wood or timber within certain territorial limits; and by prohibiting the affixing of property-marks on wood or timber by any person so long as such wood or timber shall be within certain territorial limits, as shall be in transit on certain rivers.

The Local Government may from time to time, with sanction as aforesaid, cancel, alter, and add to such Rules. All Rules made under this section, and all orders cancelling, altering and adding to the same, shall be published in the official Gazette, and shall have the force of law.

Property-marks on timber.

51. The Local Government may, by notification in the official Gazette, require all devices used as property-marks on wood or timber, or implements for affixing the same, to be registered, and may determine the Office in which they shall be registered, and the time for which such registration shall hold good.

It shall also be lawful for the Local Government to direct the levying of fees for the registration of such devices or implements, and to determine the rates of such fees.

Timber how protected.

52. No person not being the lawful owner, or acting on behalf of the lawful owner, shall, without the permission in writing of the Conservator of Forests, or other Forest Officer specially appointed on that behalf by the said Conservator of Forests, convert, cut up, burn, remove, conceal, sell or otherwise dispose of any wood or timber while in transit or stranded on the banks of any river, or lying in any other place whatsoever.

Salvage services.

53. Whenever it may appear necessary, the Local Government may fix, by notification in the official Gazette, the rates of reward to be paid for salvage services in respect of wood and timber, and no person who shall have saved any drift timber shall be entitled to keep the same, but shall, on tender of the sanctioned rate of reward, deliver up such timber to such Forest Officer or other person as may be authorized by the Conservator of Forests to receive the same.

Drift and stranded timber. Said wood, how to be dealt with.

54. All timber or wood found adrift in any river or water, or stranded on any shore, island, river bank, or otherwise, within British territory, and all unmarked wood or timber shall be deemed to be the property of Government, until or unless any person prove his right and title thereto. Such timber may be collected by any Forest Officer, or other person specially authorized in that behalf by the Conservator of Forests, and may be brought to any Government Timber Depôt. Provided always that public notice shall from time to time be given of all such drift and unclaimed wood and timber as may be received and kept at any Government Timber Depôt. A period shall be fixed of not less than three months within which claim-

Proviso.

ants may prove their title to such wood or timber. No wood or timber awarded to claimants shall be delivered until payment of the salvage dues or other expenses which may have been incurred on account of such wood or timber shall have been made, and Government shall have a lien on such wood or timber for the payment of all such salvage or other expenses incurred. On and after the expiry of the period fixed in the notice, all wood or timber to which no claim has been preferred, or to which no right or title has been established, shall become the property of Government, and may be sold or otherwise disposed of as the Local Government may from time to time direct.

Claims to drift timber, how decided.

55. All questions regarding the ownership of wood or timber brought into a Government Timber Depôt as drift or unclaimed, shall be decided by such Forest Officer as the Local Government may from time to time appoint in that behalf: Provided that such officer may, if he think fit, decline to decide himself, and refer the parties claiming to the Court having jurisdiction in such cases.

The Local Government may appoint special Courts for the decision of claims to the ownership of timber and other Forest-produce.

56. The Local Government may, with the sanction of the Government of India, from time to time appoint one or more officers to form a special Court for the decision of claims to the ownership of timber or other Forest-produce, and may define the powers and limits of jurisdiction of such Court, and lay down Rules to guide the procedure of such Court, and may determine the Court or other authority to which an appeal shall lie, and the mode and time of presenting such appeal. Wherever such special Court shall be appointed, the jurisdiction of the ordinary Civil Courts shall cease in respect of the matters provided for by the section within the jurisdiction of the said special Court.

PART X.

Of the prevention of offences and of cattle-trespass.

Duties of Police and Forest Officers.

57. It shall be the duty of every Police or Forest Officer to prevent and he may interpose for the purpose of preventing the commission of any offence punishable under the Rules made in pursuance of this Act, or any breach of the provisions thereof.

Duties of persons who have Forest rights.

58. It shall be the duty of all communities or other persons who may have Forest rights in any Forest to which this Act applies, and of all persons who may have acquired by lease or otherwise the right of cutting, using, or removing timber, wood, and other Forest-produce, or of pasturing cattle in such Forest to assist to the utmost of their ability in preventing the occurrence of fires in the Forest in which they have any right or interest as aforesaid. In the event of a fire occurring in such Forest, it shall be the duty of all such communities or persons to aid in extinguishing the same, and to use due diligence in endeavouring to detect and bring to justice any person or persons who may be suspected of having been concerned in causing such fire.

It shall also be the duty of the communities or persons as aforesaid to prevent the commission of any offence punishable under the Rules made under this Act, or any breach of the provisions thereof. And they shall use due diligence in endeavouring to detect and bring to justice any person or persons who may be suspected of having been concerned in the said offence.

Power of seizing and detaining cattle.

59. Any Police or Forest Officer may seize and detain any cattle found straying or trespassing, or doing damage to any Forest to which this Act applies; all cattle thus seized shall be dealt with according to the provisions of Act No. III of 1857, or such other Act relating to trespass by cattle as may be in force at the time.

Establishment of cattle-pounds.

60. The Local Government may from time to time authorize Forest Officers to establish cattle-pounds in places where it may be deemed necessary; such pounds shall be subject to the provisions of the Act No. III of 1857, or other Act as aforesaid.

PART XI.

Of punishments and confiscations under this Act.

Punishments for offences against this Act.

61. The Local Government may prescribe penalties for offences against any of the provisions of this Act, or for any Rule made in pursuance thereof, or for any omission contrary to the provisions of the said Act, or of any rule made in pursuance thereof: Provided that in no case shall the penalty thus prescribed exceed a fine of five

hundred Rupees, or in default of payment of such fine, simple imprisonment of the offender for a term not exceeding six months. It shall be lawful for the officer imposing any fine under this section to award a portion, not exceeding one half, of the fine to any person on whose information the offender has been convicted.

Abetment of offences.

62. Whosoever abets, within the meaning of the Indian Penal Code, any offence punishable under any Rule made in pursuance of this Act, or abets any breach of the provisions of this Act, shall be liable to the same punishment as is provided for such offence or breach of the provisions of this Act.

Rules under this Act not to prevent the operation of other laws.

63. Nothing in this Act shall be construed to prevent any person from being prosecuted under any other Regulation or Act for any offence punishable by the Rules made in pursuance of this Act, or from being liable, under any other Regulation or Act, to any other or higher penalty or punishment than provided for such offence by the Rules made under this Act: Provided that no person shall be punished twice for the same offence.

Proviso.

Forest Officers liable to punishment for neglect of duty.

64. For wilful neglect of duty, or for negligent and careless discharge thereof, the Conservator of Forests may sentence any Forest Officer under his control, whose appointment is not notified in the Gazette, to pay a fine not exceeding one month's pay of such Forest Officer.

Arrest and search in case of contempt of Rules.

65. Any Forest Officer may, without orders from a Magistrate, and without warrant, arrest any person committing an offence against any provision of this Act, or any Rule made in pursuance thereof. Any Magistrate having local jurisdiction may, upon complaint of any infringement of any provision of this Act, or of any Rule made in pursuance thereof, or without complaint, if such infringement shall come to his knowledge, take cognizance of the case, and may issue a summons to the person accused or suspected of such infringement, and may proceed against him according to law.

Persons arrested to be taken before Magistrate.

66. Any person arrested on the ground that he has committed an infringement of any provision of this Act, or of any Rule made in pursuance thereof, shall, without unnecessary delay, be taken or sent before a Magistrate, who may, if to see reasonable cause, order such person to be detained in custody, or held to bail, until the case shall have been disposed of.

Seizure of Forest-produce and implements.

67. All timber or other Forest-produce unlawfully removed or attempted to be removed from any Forest to which this Act applies, or from any station appointed by any Rule made under section 50, or from any Government Timber Depôt, or from the custody of any Forest Officer, or dealt with or attempted to be dealt with, contrary to the provision of section 52, or on which any mark has been obliterated or altered, or which has been wrongfully marked, or for which the dues and revenues lawfully payable thereon have not been adjusted, or for which a pass or other proof of ownership is not produced as prescribed by any Rule made under section 50, and all implements, tools, boats, and carts used in infringing any of the provisions of this Act, or of any Rule made in pursuance thereof, shall be liable to be seized by any Police or Forest Officer, and shall be dealt with in the manner provided in the next section.

Confiscation of Forest-produce and implements.

68. When any timber or other property shall be seized, any Magistrate having local jurisdiction, may, upon information or otherwise, summon the person found in possession of such timber or other property, or suspected to have been concerned with the same, and upon his appearance, or in default thereof in his absence, shall examine into the cause of the seizure of such timber or other property, and in the case of timber or Forest-produce described in the last preceding section, may direct the same to be restored to its lawful owner, or, no such owner appearing, to be confiscated and sold on account of Government; and in the case of tools, implements, boats or carts used in infringing any provision of this Act or Rule made in pursuance thereof, may direct the same to be confiscated and sold on account of Government. The sale of timber or other property confiscated under this section, shall be effected in such manner as the Local Government may from time to time direct. Such confiscation may be enforced in addition to any fine or penalty imposed under section 61.

Portion of proceeds may be awarded to informer.

69. In all cases where the confiscation and sale of such timber, Forest-produce, implements, tools, boats and carts shall be

adjudged as aforesaid, it shall be lawful for the Magistrate adjudging the same to award a portion of the proceeds of such sale, not exceeding one-half, to any person on whose information such property has been seized.

Penalty for vexatious seizure and arrests.

70. Any Police or Forest Officer who shall vexatiously and unnecessarily seize any moveable property of any person under the pretence of taking property liable to seizure or confiscation, or who shall vexatiously and unnecessarily arrest any person or commit any other excess beyond what is required for the execution of his duty, shall be liable to fine not exceeding five hundred Rupees, or in default to imprisonment for a term not exceeding six months.

Enforcement of confiscations and penalties under Rules.

71. The provisions of the Code of Criminal Procedure shall be applicable to the trial of all cases of infringement of provisions of this Act, or of any Rule made in pursuance thereof, and to all appeals from orders passed on such trials.

Remission of penalties.

72. When any confiscation or penalty shall be adjudged under this Act, the Local Government may, within three months after final judgment, call for the proceedings of the case, and if it shall see cause may direct that the property seized, or any part thereof, be restored, and may remit the penalty, or any part thereof, and direct that the offender be discharged.

Limitation of suits.

73. Any suit against any person for any thing done or purporting to have been done in pursuance of this Act, shall be commenced within three months after the thing done, and not otherwise.

Notice in writing of every such suit, and of the cause thereof, shall be given to the intended defendant one month at least before the commencement of the suit. The plaintiff shall not recover if tender of sufficient amends is made before suit, or if a sufficient sum of money is paid into Court after suit brought by or on behalf of defendant.

Period within which charges to be brought.

74. No charge for an offence against this Act, or against any Rule made under the same, shall be instituted, except within six months after such offence has been discovered by a Forest or Police Officer.

Prosecution against Forest Officers.

75. A charge of an offence punishable under this Act, or under any other law for the time being in force, of which any Forest Officer whose appointment is notified in the official Gazette, is accused as such Forest Officer, shall not be entertained against such Forest Officer without the sanction of the Local Government.

Till here.

A Bill to provide for the management and preservation of Forests.

Rev 3821/70

12 Dec
to 12 December 1870

26/12/70

Memorandum of ...

Forwarding for opinion revised draft Bill to provide for the management & preservation of forests

Ordered to be communicated to the Board of Revenue & to the Conservator of Forests for their opinions.

2. The Govt desire that the Board will obtain and submit the opinions of those Collectors who have personal knowledge of

...ndas Govt
...date the 12th December 1870

Read the following from the Govt of India of 20th Dec. 1870, & 20

20th Dec 1870

[illegible] Justices, Sheriffs
Servant or Farmer a
on the Provisions
Bill.

5. The Committee
Fourth will [illegible]
submit the [illegible]
the most effe[illegible]
of Fees Requisite
defects. [illegible]