

(1) Number of pages 154

(2) Date of repair 18-11-40

(3) Initials of the Referencer G. 18/11

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	724	Press Mix
Dated	25-3-	1879

Original

Not to be folded or roughly handled

Forest Bill - Draft

REVENUE DEPARTMENT,
FORT ST. GEORGE,
25th March 1879.

No. 724.

No. 510.

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
DEPARTMENT OF REVENUE,
AGRICULTURE, AND COMMERCE.

Forests, No. 13.

SIR,—With reference to the last paragraph of your letter, dated 5th January 1878, No. 12-F, I am directed by His Grace the Governor in Council to forward, for the information of the Government of India, the accompanying copy of the draft "Forest" Bill proposed to be introduced into the Madras Legislative Council.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed) J. H. GARSTIN,
Acting Secretary to Government.

Exd. J. W. Fischer.

Agriculture (1879) Department.

Government of Fort St. George.

Dated 25th March 1879. { No. 724.
Received. { Enclosures.
5 Spare Copies.

D. No.	Progs.
L. No.	No. 510.

FORWARDING, for the information of the Government of India, copy of the draft Forest Bill proposed to be introduced into the Madras Legislative Council.

Date of coming into operation.

Extent of Act.

"Forest."

"State Forest."

Whereas it is expedient to provide—
i. For the preservation and better management of forests in the Madras Presidency.

ii. For the settlement of private and communal rights in the said forests and the separation of State forests from communal and private forests.

iii. For the regulation and protection of timber and other forest produce during removal from the forests whether by land or water.

iv. For the assessment and collection of forest revenue.

It is enacted as follows:—

PRELIMINARY.

1. This Act shall come into operation on the—and may be cited as the Madras Forests Act, 1876.

2. This Act may be extended by Notification in the *Fort Saint George Gazette* to any part of the territories under the administration of the Government of Fort Saint George.

CHAPTER I.

DEFINITIONS AND EXPLANATIONS.

3. In this Act the following words shall have the significations hereunder attached to them:—

Government shall mean the Government of Fort Saint George.

Forest shall mean any tract of land producing naturally or by cultivation, trees, bamboos, or brushwood, and may include mountains, rocks, or open country. Provided that no such tract of land shall be considered to be a forest within the meaning of this Act, until a settlement as provided for in Chapter II. shall have been carried out therein.

State Forest shall include besides forests the property of Government in which the proprietary right of Government is absolute, forests in which the rights of Government are paramount.

"Communal Forest."

Explanation.

"Communal Forest right."

"Private Forest."

Explanation.

"Magistrate."

"Forest Officer."

"Conservator of Forests."

"Cattle."

"Timber."

"Forest Produce."

"Property Mark."

"Forest privilege."

Communal Forest is a forest the property of a community, or one in which the rights of a community are paramount.

Explanation.—There may be State rights or private rights in a communal forest, or communal rights or private rights in a State forest.

Communal Forest right is a right held in common by a number of persons as against all other persons or the State. A communal right does not necessarily imply immunity from taxation.

Private Forest is a forest the property of a private person or persons, or in which the rights of private persons are paramount.

Explanation.—There may be State rights or communal rights in a private forest.

Magistrate shall mean any officer exercising all or any of the powers conferred on Magistrates under the provisions of the Criminal Procedure Code.

Forest Officer shall include all officers appointed by or under the authority of Government for the control, inspection, management or protection of any forest.

Conservator of Forests shall mean the chief Forest Officer of the presidency.

Cattle includes, besides horned cattle, elephants, camels, horses, asses, mules, sheep, goats, and swine.

Timber shall include brushwood, trees, and bamboos, whether standing or cut, and wood whether fashioned or worked up for any constructive purpose.

Forest Produce means all the natural productions of a forest and includes honey, wax, lac, and ivory.

Property Mark, as used in the Indian Penal Code, shall be held to include any such mark placed upon a standing tree.

Forest privilege means any user of a forest, or of the produce thereof, when such is exercised, not as of right but at the pleasure of Government.

"Duty."

"Timber station."

"River."

"Proclamation of a notice or summons in any village."

Explanation.

"Settlement Officers."

Duties of Settlement Officers.

Duty includes any money which may be lawfully levied in respect of timber or forest produce.

Timber station means any place appointed under competent authority for the storing of timber or forest produce, for stopping or examining timber or forest produce or for the levy of duty thereon.

River includes stream, creek, canal or channel.

Proclamation of a notice or summons in any village means the service of copies of such notice or summons upon one or more of the principal inhabitants of the village, accompanied by proclamation of the contents of the notice or summons by beat of tom-tom.

Explanation.—When such notice or summons is to a community of persons, it shall be considered to be duly made or served when the procedure above described has been observed in the village or villages where the majority of the community or the principal members thereof ordinarily reside.

CHAPTER II.

OF THE SETTLEMENT OF FORESTS.

4. Whenever it shall appear to Government desirable that the provisions of this Act be put in force in any part of the territories subject to the Government of Fort Saint George, a notification to this effect shall be published in the *Fort Saint George Gazette*, stating, as nearly as may be, the boundaries of the tract or tracts to which the Act is to be applied, and appointing one or more officers to be styled Settlement Officers.

5. It shall be the duty of such Settlement officers, subject to the orders of Government, to hold a local inquiry for the purpose of ascertaining, defining and demarcating the boundaries of the several classes of forests within such tract, such classes shall consist of State forests, communal forests, private or proprietary forests, as above defined.

It shall also be the duty of the Settlement Officers to inquire into and decide upon all claims to forest rights whether State, communal or private, and whether such claims are made regarding State, communal, or private forests. The decisions so come to shall be called the settlement of the forest.

Powers of Settlement Officers.

6. For the purposes of such inquiry, the Settlement Officers shall have all the powers given by the Civil Procedure Code to Judicial Officers, and shall follow the procedure laid down in that Code on all points not herein expressly provided for.

State how represented.

7. The interests of the State shall be represented at such inquiry by such forest or other officer as the Government may depute for that purpose.

Claims to be brought within one month.

8. The appointment of a Settlement Officer to any tract shall be published in the District and neighbouring *District Gazettes*, and by proclamation in the villages in the neighbourhood of the forests, calling upon all persons having any claim upon or in the forest tract to be settled, to come forward and state their claims within one calendar month. All claims brought forward shall be registered by the Settlement Officers.

Government may admit claims at any time.

9. No claim not brought forward within one month from the date of proclamation in the village in which the claimant lives shall be entitled to be heard, but it shall be competent to Government to admit claims at any time.

Requirements and rejections by Settlement Officers.

10. The Settlement Officers may require any claimant to specify or describe his claim in such a manner as will make it distinct and clear, and may for this purpose reject or return incomplete or vague statement of claims.

They may also require any claimant to point out and to mark sufficiently for identification the boundaries of any tract in which he claims any right, and for this purpose may, from time to time, allow such period as they may consider sufficient.

Decision of claims.

Settlement of boundaries.

Summons to a community.

Right of appeal.

Suit in Civil Courts.

Execution of decisions.

Report and Maps.

11. After the lapse of one month from the date of the notice and proclamation in the villages, the Settlement Officers shall proceed to investigate and pass judgment on the claims brought before them and registered under Section

12. They shall also, after due inquiry, settle the boundaries of all areas falling under any of the three classes of forests as defined in Section

13. The Settlement Officers shall have authority of their own motion to inquire into any claim upon any tract of forest or to any forest right whenever its existence may come to their knowledge, and to pass a decision thereon, provided that they shall be bound to summon all persons who may appear to have an interest in such claim. Such summons in the case of a community shall be made by proclamation in the villages inhabited by the members of such community.

14. All decisions under this chapter shall be subject to an appeal to the District Court within two calendar months from the date of the judgment appealed from. Appeals may be made on behalf of the State by any officer authorized by the Local Government in that behalf.

15. Subject to appeal, all such decisions shall be final as regards the claim decided upon, and shall be binding upon all Civil Courts, but nothing in this Act shall be taken to prevent any person from preferring a suit in the Civil Courts on any forest matter not decided under this Act.

16. All such decisions may be executed by order of any Civil Court either by its own process or by process of any Court subordinate to it, or by the Settlement officers in all cases under the provisions of the Civil Procedure Code.

17. The Settlement Officers shall submit to Government a report on the decision come to in the course of the settlement, together with maps showing the boundaries of the different classes of forests as settled. They shall make such recom-

mentations in respect of forest privileges as they may think desirable.

CHAPTER III.

STATE FORESTS.

Provisions after Settlement.

18. When any tract has been settled as a State forest :

i. No new rights shall accrue in such forest without the sanction of Government.

ii. The land shall not be alienated without the sanction of Government.

Rules by Government for State Forests.

19. The Government shall have power to make rules for the protection and management of any forest of this class.

Publication of rules.

20. Rules made under this section after publication in the *Fort Saint George* and *District Gazettes*, and proclamation in the villages in the vicinity of the forest concerned, shall have the force of law.

Subjects of rules.

21. Such rules may be made on the following subjects :—

Roads.

i. Regulations for the use of roads in such forests and prohibition of ingress except upon authorized roads or paths.

Fire.

ii. Setting fire to the grass in any State forest without permission, or near it without due precaution to prevent its spreading into the forest.

Grazing.

iii. Grazing or pasturing of cattle.

Felling or injuring growths.

iv. Felling, girdling, cutting or lopping, marking, burning, stripping off the leaves or bark of trees, tapping for gum or resin, or in any way injuring any trees, shrubs or bamboos.

Removal of produce.

v. Removal of dead leaves or turf, cutting grass, collecting fruits, honey, wax, gum, bark, lac or any kind of forest produce.

Cultivation.

vi. Making temporary clearings or any form of cultivation.

Transit of timber and produce.

vii. The time and manner of removing timber or other forest produce whether by land or water.

Arrest without warrant.

Seizure of cattle.

Cattle pounds.

Competence of and restrictions on forest officers.

Vexatious seizure or arrest.

51. Any Police or Forest Officer may, within the limits laid down in Sections 45 and 46 arrest without warrant any person committing an offence against this Act or the rules made pursuant to it, but such person shall without unnecessary delay be taken before a Magistrate, who, if such person refuses or is unable to give bail, may order him to be detained in custody until the charge against him has been disposed of.

52. Any Police or Forest Officer may seize and detain any cattle found unlawfully straying in or doing damage to any portion of a forest to which this Act applies, and which is closed either temporarily or permanently.

The provisions of Act I. of 1871 shall apply to such cattle trespass, provided always that Government may prescribe fines to be levied for cattle trespass otherwise than as directed in Act I. of 1871.

53. The 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 Act I. of 1871.

54. It shall be lawful for any officer not below the rank of Forester to conduct an inquiry into any offence made punishable under this Act and to take recognizance from all necessary witnesses to appear before the Magistrate. No Forest Officer below the rank of Forester shall exercise any of the powers conferred by the Act unless wearing such uniform or badge of office as Government may from time to time prescribe.

55. Any Police, Forest, or other Officer of Government who shall vexatiously and unnecessarily seize and detain any cattle or the goods or chattels of any person under the pretence of seizing property liable to confiscation, or shall vexatiously and unnecessarily arrest any person or commit any excess in the execution of his duty, shall be liable to

a fine not exceeding 500 Rupees, or to imprisonment of either description as defined in the Indian Penal Code for a term not exceeding three months.

Prohibitions against trading.

56. No Forest Officer shall engage or be concerned in trading in timber, or other forest produce, or in any Agency business, nor shall he have any interest direct or indirect in any lease of any forest, or in any contract for working any forest, whether in British or Foreign territory within the limits of the Madras Presidency, nor shall he engage in any employment or office other than his duties under this Act, unless expressly permitted by Government.

PENALTIES, &c.

Penalties for offences against this Act.

57. The Government may prescribe penalties for offences against the provisions of this Act, or of any rule or bye-law made in pursuance thereof, or for any abetment of such offence (within the meaning of the Indian Penal Code.)

Such penalty shall not exceed six months' imprisonment of either description, or Rupees 500 fine, or both.

Aggravation.

58. The Government may prescribe a penalty not exceeding double the ordinary penalty in cases where the offence is committed between sunset and sunrise, or after preparation for resistance to lawful authority, or if the offender has been previously convicted of the same offence.

Fines for misconduct in case of subordinates.

59. Any forest subordinate whose appointment is not notified in the *Fort Saint George Gazette* shall be liable to fine not exceeding one month's pay for misconduct, such fine may be imposed by such Deputy or Assistant Conservators as may be duly authorized by the Conservator of Forests.

Prosecutions under other laws.

60. Nothing in this Act shall be construed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act, or the rules made under it, or from being liable

Procedure. Summary trials.

under such other law to any higher punishment or penalty than that provided by this Act, provided that no person shall be twice punished for the same offence.

61. Any Magistrate having local jurisdiction may, upon complaint of the infringement of any provision of this Act, or of any rule made under it, or without complaint if such infringement shall come to his knowledge, take cognizance of the same, and shall proceed as prescribed in the Code of Criminal Procedure for the investigation and trial of summons cases. Offences against this Act, or the rules made in pursuance thereof, may be tried summarily under the provisions of Section 222, Criminal Procedure Code. Provided that no greater sentence shall be passed after a summary trial than imprisonment for one month or fine of 100 Rupees.

Disposal of subject of inquiry.

62. When a complaint is made before a Magistrate having jurisdiction of the commission of any offence punishable under this Act or under any of the rules or bye-laws in force under it, it shall be lawful for the Court to make any order that may seem right regarding the disposal, pending the completion of the inquiry, of any timber or forest produce referred to in such complaint, whether such timber or forest produce is produced in Court or not. It shall be lawful for the Court at the conclusion of the inquiry into such complaint, to make any final order as may seem right as to the disposal of such timber or forest produce.

Appeal.

63. There shall be an appeal from all such final orders.

Timber when liable to confiscation.

64. All timber, or other forest produce in respect of which there has been any infringement of this Act, or of the rules made under it, or from which any mark has been fraudulently obliterated or altered, or which has been fraudulently marked, or for which the duty or royalty lawfully payable thereon has

Procedure in cases of confiscation.

Orders of Magistrate.

Reward to informants.

Procedure in all cases

been evaded or attempted to be evaded, or which is not covered by a pass or other proof of ownership when such is prescribed by the rules made under this Act, shall be liable to confiscation in whole or in part by order of a Magistrate in addition to any penalty which may be prescribed by law.

65. When any timber or other property is liable to confiscation under the last section, it may be seized by any Police or Forest Officer. On such seizure being made, a distinctive mark shall be put on the property seized, and the officer seizing it shall, as soon as may be, apply for the confiscation of the property to any Magistrate having local jurisdiction at the place of seizure.

66. The Magistrate shall summon the owner or the person found in possession of such property, or any person reasonably believed to have been concerned with the same and upon his appearance, or in default thereof in his absence, shall examine into the cause of seizure of such property and may adjudge the confiscation thereof in whole or in part; property so confiscated shall thereupon belong to, and vest in, Her Majesty, and the Court shall issue a warrant to that effect directing the Forest Officer having local charge to hold the property confiscated at the disposal of Government. An appeal shall lie from all orders under this section.

67. A portion not exceeding one-half of any fine or money penalty awarded under this Act or other law on a trial for an offence which is punishable under this Act, may be awarded by order of the Court to any person on whose information the offenders were brought to justice.

68. The provisions of the Code of Criminal Procedure shall apply to the trial of all cases or appeals under this Act, and to the admission of appeals in cases where an appeal is not specially provided for in this Act.

Search warrant.

Damage to boundary marks.

Levy of fines or penalties.

69. It shall be lawful for a Magistrate when he considers that any inquiry into an offence known or suspected to have been committed and punishable under this Act will be furthered by the search or inspection of any house or other place to issue a search-warrant to search such house or place. Such warrant shall be executed in the same way and shall have the same effect as a search-warrant issued under the Code of Criminal Procedure.

70. Any person wilfully erasing, removing, or damaging any boundary mark may, on conviction before a Magistrate, be ordered to pay such sum not exceeding Rupees 10 for each mark so erased, removed, or damaged, as may be sufficient to defray the expense of restoring the boundary mark and of rewarding the informer through whom the conviction was obtained. Such penalty to be in addition to any punishment which may be legally inflicted upon him under the provisions of the law under which he is tried and found guilty.

71. All fines or penalties shall be levied in the manner provided for this purpose by the Code of Criminal Procedure and shall be credited to forest revenue.

STATEMENT OF OBJECTS AND REASONS.

G. O., No. 1,371, dated 17th September 1875, directs that forest legislation shall deal with three classes of forests, *viz.*, State, Communal, and Private. The Committee have endeavoured to define and deal with the forests under those three classes, but deem it right to point out that the definition or distinction of the two first is very difficult, and must necessarily be more or less arbitrary.

2. They have found themselves face to face with the fact that both the State and village communities have probably rights, however vague or ill-defined, in almost *all* forests not being private property. The State has an undoubted right to tax the produce of all forests not being private property, and has constantly claimed and exercised a right to fell and remove timber and other forest produce for public purposes, and to reserve certain descriptions of trees. It has also in many cases claimed and exercised the right to alienate forest tracts in favor of individuals who foreclose all forest rights, except perhaps right of way, by clearing the forest and bringing it and the pasture lands under cultivation.

On the other hand, the inhabitants of villages adjoining the forests have undoubtedly prescriptive rights in all forest tracts which they have exercised more or less from time immemorial. In some cases also villages remote from the forests claim and exercise certain rights, such as pasturing of cattle, &c. It would be all but impossible to enumerate those rights, and yet their definition, and in some cases restriction, is exactly what is required by the Forest Department in the interests of real forest conservancy.

3. The Committee have endeavoured to provide the requisite machinery for dividing the forests into State and communal or reserved and unreserved by the appointment of Settlement officers duly authorized to hold local inquiries and settle the forests on the spot. It will probably be found possible in this manner to arrive at definite and equitable conclusions, reserving for the communities the tracts in which their rights or privileges have for the most part been exercised subject to equitable conditions as regards their preservation and conservation, and for the State the more remote tracts to which the people have as yet scarcely penetrated.

4. They further provide for the preservation and management of private forests under certain conditions in cases where interference is shown to be necessary in the interests of the public at large.

5. The Committee have also provided for the assessment and collection of forest revenue, and the regulation and protection of timber in transit, defined the powers of officers of the Forest Department, and the penalties for infringement of the forest law.

Chapter II.

Chapters V. and VI.

Sections 45 to 48 and Chapter VII.

Sections 4 to 17.

Section 6.

Sections 14 and 35.
Sections 5 and 12.

Section 40.

Section 41.

Sections 18 to 21.

Sections 22 to 25.

Sections 30 to 36 and 33.

Section 34.

Section 21.

Sections 24 and 23.

Section 32.
Section 36.

6. The present bill then provides machinery for the investigation and settlement of such of the rights or claims upon the forests of the Presidency as interfere with their management, as well as for the settlement of the boundaries of private forests.

7. As such questions are matters purely of civil rights in which it appeared to the Committee that the parties concerned had a right to the full benefit of the civil law as administered by judges who are practised and skilled in such matters, as well as the full opportunity of stating and managing their own cases given by the Civil Procedure Code, the Committee have adopted the procedure of that Code for the inquiries of the Settlement officers, and have provided an appeal to the District Courts from their decisions.

8. Forests that are not private property will then be divided into State and communal according as it may appear that the claims of the State or of communities preponderate.

9. It is proposed that the Government should commute or extinguish all rights but those of the State in State forests or in such parts of State forests as they think necessary, and means have been provided for effecting this.

It is possible that communal or public rights in State forests may be amicably exchanged for State rights in communal forests.

10. Very complete control has been provided for over State forests by the rules which the Government are empowered to make under Chapter III.

In communal forests interference has been limited as much as is possible consistently with the preservation of the forests, for which purpose more limited powers have been provided.

Private forests have been treated in the same way as communal forests, but with an additional precaution in favor of private rights, *viz.*, that compensation shall be claimable for any loss which the proprietor may be able to establish.

11. Provision has been made for inquiry into the validity of the title of Zemindars and other proprietors to hold tracts of forest free of all charge, which it is believed were not intended to be included in their estates at the time of the Permanent Settlement.

12. Power is given to the Government to raise any revenue that may be possible in any way from State forests limited only by a saving in favor of rights established by the Settlement. It is intended that such rights shall be bought out or commuted when necessary.

Power is given to Government to levy a duty not exceeding 25 per cent. upon the produce of communal forests as well as to appropriate the proceeds of the closed portions of such forests for the expenses of management. The proceeds of closed portions of private forests are made liable to appropriation towards the expenses of inspection and management. Power is given to impose a duty not exceeding 12½ per cent. upon timber imported from Native States within or bordering on the limits of the Presidency. This provision is intended to prevent heavy loss to the State from the importation of timber on which no duty is payable and the consequent underselling of the produce of State forests. The Committee think that this provision is necessary to protect the forest revenues, but they are doubtful as to the general policy of such a measure.

Registration of Property marks.

Lime or charcoal.
Unclaimed timber.

Passes and permits.

Rates of sale, and duty.

Rates for pasture.

Proviso.

Control of Communal Forests.

Government may close certain areas.

viii. The registration of marks used as property marks for timber or other forest produce and the prohibition of marks used by Government.

ix. The burning of lime or charcoal.

x. The collection of timber or forest produce found without owner and its disposal in default of any claim being established thereto within three months and after due notification.

xi. The production by persons entering State forests or removing timber or forest produce, of licenses or permits or passes when such are considered requisite and the terms of such licenses, permits or passes.

xii. The rates at which timber or forest produce shall be sold, or the duty that shall be levied in respect thereof.

xiii. The rates that shall be charged for pasture.

Provided that no rule made under this chapter shall affect or abridge any forest right established by a decision under Chapter II. until the same has been extinguished in the manner hereinafter described.

CHAPTER IV.

COMMUNAL FOREST.

22. Communal forests shall be subject to control for the following purposes only:—

I. The preservation or extension of the forest.

II. The general interests of the public.

III. The collection of duty.

IV. The protection of State rights.

23. For the preservation or extension of a communal forest, the Government shall have authority by notification in the *District Gazette* and proclamation in the villages in the vicinity to close any specific areas for any prescribed period, provided that such area shall be open for at least an equal succeeding period.

Proviso.

Provided further that no area closed shall exceed ten square miles in one block and that forest of not less extent adjoining be left open when any area is closed.

Closed areas under Forest Officers.

24. When any such forest area is closed, it shall be entirely under the control of the Forest Officers and subject to such rules as may be prescribed by Government for State forests.

Proceeds how applied.

25. The proceeds of any closed forest may be applied in payment of the cost of supervision and management of the same.

Rules for preservation of open portions.

26. The Government shall have authority when they consider it necessary for the preservation of any communal forest or the prevention of waste in the open portion thereof, or the protection of State rights therein, to make the following rules, viz. :—

Minimum diameter.

i. That no tree of any particular kind shall be cut or taken from the forests otherwise than of a certain prescribed minimum diameter at three feet from the ground.

Marked trees.

ii. That any particular tree or trees to be marked by a Forest Officer be reserved.

Clearing for cultivation.

iii. That clearing of forest for cultivation, or any other purpose be prohibited.

Reserve of Government trees.

iv. That trees of certain descriptions, the Government right to which has been established before the Settlement Officer, be reserved.

Such rules shall be notified in the *District Gazette* and by proclamation in the villages in the vicinity of the forest.

Bye-laws by Local Funds Boards.

27. For all other purposes connected with the management and control of communal forests, the Local Fund Boards of the Circles in which such forests are situated, shall have power to make bye-laws, such bye-laws when confirmed by Government and published as above described shall have the force of law.

Levy of duty.

Proviso.

Provisos. Exemptions from duty.

28. The Government is hereby empowered to levy a duty on all timber and forest produce taken from communal forests at a rate not exceeding 25 per cent. of its value. Such value to be determined as the Government shall direct. The expenses of the inspection, management, and improvement of communal forests shall be met from the proceeds of such duty.

Provided that no surplus derived from communal forests shall be credited to Imperial Revenues.

29. Provided also that no duty shall be levied on timber or bamboos *bonâ fide* required for agricultural purposes and not for sale.

Provided further that all fuel for village consumption shall be free without permit, pass or other restriction of any kind to villagers having forests within their limits, and to such others as Government may determine.

CHAPTER V.

PRIVATE FORESTS.

When Government may close private forests.

30. Whenever it shall appear to Government upon due inquiry that the timber in any private forest is being wasted, or that the forest is in danger of being destroyed, and that such waste or destruction is injurious to the interests of the public, the Government shall have power to close portions of such forests or to make rules in the manner provided in Chapter IV. in the case of communal forests.

Compensation.

31. Provided that in any case dealt with under this section, compensation shall be paid to the owner for any loss sustained by him in consequence of such action.

The compensation to be awarded shall be settled in the manner provided by Act X. of 1870.

Proceeds how applied.

32. The proceeds of any closed portion of such forests shall be paid to the owner, and sums so paid shall be taken into account in fixing the amount of any compensation which may be payable to him.

Provided that the whole or any part of such proceeds may be appropriated to the payment of the expenses of inspection and management of the forest.

Right of entry.

33. Forest Officers shall have the right of entry at all times into any private forest for the purpose of inspection or in the execution of any duty imposed upon them by this Act.

Duty on Zemindars' timber, when payable.

34. The Government shall have power to authorize the Settlement Officers to hold an inquiry into the validity of the titles of Zemindars, Inamdars or other proprietors to hold any tract of forest in their possession free of assessment, and if it shall appear by such inquiry that any part of such tract was not included in the assets upon which the permanent peishcush was fixed, and not specially exempted at the time of the Permanent Settlement, Government may assess such tract by authorizing the levy of duty on all timber and forest produce taken therefrom at rates not exceeding 25 per cent of its value. Such value being fixed in any manner the Government may direct.

Appeal.

35. All such decisions of the Settlement Officers shall be open to appeal to the District Court within two months of the decision appealed from.

Duty on Foreign timber.

36. It shall be lawful for Government to fix rates of duty not exceeding 12½ per cent. of the value thereof, on timber and forest produce imported into the Madras Presidency from any Foreign State in alliance with Her Majesty situated either within or adjoining the limits of the Madras Presidency, and to collect the same. The regulations hereinafter provided for the collection of duty on timber, for its protection by means of passes and permits, and for the

Restrictions on clearing any forest.

Land-slips.

Protection of slopes of banks.

Protection of water-supply.

Protection of roads.

Public health.

Compensation.

Expropriation for forest purposes.

power to stop it in transit, shall apply *Mutatis Mutandis* to such imported timber, within four miles of the frontier.

CHAPTER VI.

PROVISIONS APPLICABLE TO ALL FORESTS.

37. The Local Government shall have authority to prohibit the clearing, felling or burning of trees, bamboos, brushwood or grass in any forest, whether State, communal or private, on proof to their satisfaction.

I. That there is danger to the public from land-slips or storms which such prohibition will tend to prevent.

Or

II. That such order is necessary for the protection of the slopes of mountains, and banks of streams, rivers, and other waters.

Or

III. That the interests of the public require that the water-supply in certain streams or rivers be protected by such provisions.

Or

IV. That such order is necessary in the interests of the public to protect any road, railway, or other line of communication.

Or

V. That it is necessary in the interests of public health.

38. In all such cases compensation shall be paid to the owners of private property for damage sustained by them in consequence of such order.

The procedure provided by Act X of 1870 for the calculation of the compensation to be paid for land taken for a public purpose shall be applied *mutatis mutandis* to the calculation of the compensation to be paid under this section.

39. Whenever it shall appear to Government desirable on public grounds to expropriate any land for forest purposes or any forest in which the Government has or has not any forest right, such expropriation may be effected

Extinction of forest rights.

under the provisions of the Land Acquisition Act X. of 1870 or other law in force for the time being for this purpose.

40. Whenever it shall appear to Government desirable that any forest right be extinguished such right shall be extinguished under the provisions of Act X. of 1870.

Commutation of communal rights.

41. Any such forest right may be commuted by mutual consent, provided that consent by a community shall be legally binding on all the members thereof when given in writing by a majority of two-thirds of such members as appear in person or by Agent in pursuance of a summons or notice served in the manner laid down in Section 13.

Demarcation and upkeep of boundary marks.

42. The Government or any officer duly authorized on their behalf shall have authority to prescribe the nature and number of boundary marks required for the boundaries of any forest, and to determine when and by whom and at whose cost they shall be established or from time to time repaired. Such officer shall have authority to make a requisition in writing to any person so liable to mark out a boundary or to set up, maintain, or repair any boundary marks in such manner as he may consider necessary, and, on his failure within a reasonable time to be fixed by the said officer to obey such requisition, may cause the boundary to be marked out, or the boundary marks to be set up or repaired, the cost of such operation may be recovered as an arrear of revenue under Act II. of 1864.

Cost of demarcation of communal forests.

43. The cost of the demarcation and maintenance of boundary marks of communal forests shall be defrayed from the proceeds of such forests realized under the provisions of Section 28.

Proviso.

Provided that when such boundary is in dispute no requisition shall be made until the dispute has been settled.

Officers appointed by Government to settle boundaries.

44. The Government shall have power at any time to authorize any officer

to inquire into and to settle any forest boundary. Such officer shall have all the powers herein conferred on a Settlement Officer and shall follow the procedure herein laid down for Settlement Officers. All decisions under this section shall be open to appeal to the District Court within two months from the date of the decision.

OF THE REGULATION AND PROTECTION OF
TIMBER AND OTHER FOREST PRODUCE
DURING REMOVAL FROM THE FORESTS
WHETHER BY LAND OR WATER.

Timber stations. Limit of distance for.

45. Whenever any duty shall be imposed upon timber or forest produce under the provisions of this Act, it shall be lawful for the purpose of realizing the said duty for the Conservator of Forests, with the concurrence of the Collector of the district, to appoint timber stations at such points not ordinarily exceeding four miles from the boundary of a forest as may be convenient and to notify the same by proclamation in the villages in the vicinity and by publication in the *District Gazette*. Such proclamation shall state the articles subject to duty and the rates of duty and the place where the duty is payable, and shall direct all persons removing timber or forest produce liable to duty, to bring the same to one or other of such timber stations in order that the duty due thereon may be levied, or the timber or forest produce examined.

All persons removing timber or forest produce liable to duty shall be bound to obey such direction.

Powers of Forest Officers to stop timber or forest produce.

46. It shall be lawful for any Forest Officer to stop any timber or forest produce at any point within four miles of the boundary of any forest for the purpose of ascertaining whether the duty due thereon has been paid or the regulations in force under this Act complied with, and he may detain the same for such period as may be necessary in order to ascertain whether such duty has been paid and such regulations complied with

Permits by whom granted.

or not, payment of duty shall be sufficiently proved by production of a receipt, permit, or pass signed by any officer lawfully authorized to receive such duty and containing such particulars as shall be approved by Government.

47. All proprietors of private or proprietary forests, and in communal forests, any member of the community appointed under the authority of Government on that behalf, and for State forests, any Forest Officer duly authorized by the Conservator of Forests, shall grant permits to all persons authorized by them, to remove timber or forest produce from the said forests, such permits shall state the quantity of timber or forest produce to be removed and the time allowed for removal.

Confiscation of timber not covered by permit.

48. Any timber or forest produce found within four miles of a forest without a permit may be confiscated either in whole or in part at the discretion of the Magistrate having jurisdiction. There shall be an appeal from all decisions under this section.

Appeal.

CHAPTER VII.

OF THE PREVENTION OF OFFENCES AND PENALTIES, &c.

Duties of Police and Forest Officers.

49. It shall be the duty of every Police or Forest Officer to prevent, and he may interfere for the purpose of preventing, the commission of any offence punishable under the provisions of this Act, or the rules framed in accordance therewith.

Duties of communities.

50. 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 commission of offences punishable under the provisions of this Act.

Sections 45 to 48.

Sections 37 to 39.

Section 42.

Sections 49 to 56.

Section 61.

13. To prevent evasion of duty or royalty, it is provided that no timber or forest produce shall be removed from any forest without a permit or pass, and power is given to Forest officers to stop all timber, &c., for the purpose of checking such passes within four miles of the boundary of any forest. The pass in the case of private forests is to be given by the owner, and in the case of communal forests by some member of the community appointed by Government for this purpose.

14. General power has been given to the Government to prohibit the felling or destruction of any forest where the existence of such forest is necessary for any public purpose, such as the preservation of the water-supply in streams or rivers; all losses sustained in consequence of such orders are to be compensated.

15. Provision has been made for the restoration and upkeep of forest boundaries.

16. Forest officers have been given power to prevent offences against the provisions of the Act, or the rules made under it, to arrest without warrant persons committing such offences provided that they are to be taken at once to the Magistrate who is to release them on bail if bail is offered.

17. The provisions of the Criminal Procedure Code in summons cases have been adopted for the procedure of Magistrates and for appeals from their decisions.

Exd. W. J. Lewis.

Memorandum on the Draft Forest Bill by Deputy Collectors A. Narrain Row and V. Venkatachellum Puntulu.

THE chapter on communal forests is obviously the most important affecting the interests of the people, and we deem that the provisions of the draft bill are not sufficiently comprehensive.

2. A communal right is essentially a right possessed or exercised by the community or a section of it to the usufruct of the forests, and must differ characteristically in its nature and character from the simple access which is open to the people to any other kind of unreserved forest on payment of seigniorage or tax. An immunity or indulgence should be provided for consistent with the long and established usage of the country. The provisos at the end of the Chapter IV. were accordingly introduced at the proposition of one of us (A. Narrain Row), but the wording adopted virtually narrows the limits of the indulgence intended to be conceded.

3. As the Forest Bill now stands, all timber, fuel, and other forest produce are subject to taxation except in the case of (1) such timber as is taken "for agricultural purposes and not for sale," and (2) such fuel as is removed "for village consumption by the villagers having forests within their limits and such others as the Government may determine."

4. So the communal right in respect to fuel is recognized only in the case of a few villages, which may, by the accident of their position, lie on the outskirts of forests or amidst them, and which, while few and limited in number, generally require little or no fuel from jungles for village consumption. In such villages generally cow-dung, dried crop stalks, dried leaves are used for fuel by those who have a household or a farm.

5. It would seem natural to suppose that nature intended that a forest or jungle should be used by the people of all villages which have no jungle or forest to depend upon, but this may be too wide under the peculiar circumstances of the fuel market of the present day.

6. But, admittedly, the poor people of any locality, the tribes inhabiting jungles and hills, and the cattle have always enjoyed free rights to the produce of a jungle. Thousands of poor people acquire their bare means of subsistence by selling the produce of the forests, by selling fuel, honey, wax, medicinal roots, &c.; and the cattle of the country live by grazing in the jungle tracts.

7. In all Governments and at all times a consideration has always been shown to the people who live by carrying fuel on their heads for sale. Carrying fuel on head over miles for bare maintenance is the hardest lot, and a tax—and that a petty tax of a few pies—on such poor people is obviously productive of hardship and misery, not to speak of the wide door that will be opened to oppression and extortion in the collection of such petty personal tax.

8. We, therefore, propose that all fuel carried as head-loads should be allowed free, and that provision should be made for the free enjoyment of miscellaneous forest produce. We would, therefore, add the following provisos at the end of the chapter on communal forests:—

Proviso No. 3.—Provided that no fuel carried on heads shall be subject to any charge.

No.

From

Dated

187

FOR ORDERS.

Proviso No. 4.—Provided also that nothing in this chapter shall preclude persons from collecting and removing, free of all restrictions, honey, wax, lac, grass, herbs, roots and leaves, gravel, sand and stones, or from grazing their cattle, or from gaming.

9. It has been argued that the allowing of head-loads free might lead to an attempt to avoid all tax on fuel by the use of head-coolies and result in the loss of public revenue. But no such systematic fraud need be apprehended, as the cost of carrying on heads by coolies long distances before the fuel could be put into carts would prove ruinous and unprofitable, and thus serve as a safeguard. Under Chapter VI. timber stations are placed at four miles from the boundaries of forests, a distance long enough to prevent any systematic fraud to be successful particularly if the forest officers watch all four miles round a forest.

10. As for public revenue from this source, it is petty and objectionable considering the extent of oppression involved in it.

11. Power should also be given to Collectors to allow timber free for building purposes in all cases where the concession may be deemed necessary. This is the practice now, and we do not see any reason for ignoring it.

12. The communal forests in private or zemindari estates have been intended by the Committee to be embraced in the definition of communal forest and the provisions in respect to that class of forests. This intention of the law should be made more explicit than it appears now.

13. The provisions of Chapter II. enable any community or person to establish his claim to any communal right in a zemindari or private jungle, and to have it enforced, but there is no provision for free grant of timber for building purposes when necessary. The Collector should have general power to grant free permits for timber for building purposes in all communal forests, whether in Government territory or zemindari tracts, or the zemindari ryot can never be placed under sufficient protection in respect to this right or privilege.

(Signed) A. NARRAIN ROW,
Deputy Collector.

(") V. VENKATACHELLUM,
Deputy Collector.

G. O. 25 March 1879
No 724

*Amulata Dept letter to the
S.D. in the Forest
with reference to
the suggestion of his office
the Gov. continued in
the Mangal letter.*

*H
9.12.76*

FOR ORDERS.

First Mile

Draft letter to J. J.

Care

Spent

G.C. 25 March 1879
N^o 724

C. 114 Dec 76 1876-12-76

Note

- 3 Class Forest
- 1 State Forest
- 2 Village Forest
- 3 Private Forest

1. State Forest.
It is necessary that
the right of the State
to the land should be
clearly defined. The
State should be able to
control the land and
the people should be
able to use it for their
own purposes. The
State should be able to
control the land and
the people should be
able to use it for their
own purposes.

G.C. 25 March 1879 N^o 724
2 Village Forest. No reason
exists for limiting rights
of the village. The
village should be able to
control the land and
the people should be
able to use it for their
own purposes. The
village should be able to
control the land and
the people should be
able to use it for their
own purposes.

and should not be
excluded. The
village should be able to
control the land and
the people should be
able to use it for their
own purposes. The
village should be able to
control the land and
the people should be
able to use it for their
own purposes.

It is necessary that
the right of the State
to the land should be
clearly defined. The
State should be able to
control the land and
the people should be
able to use it for their
own purposes.

of convenient size and
suitably situated for
the growth of communities
excluding exercise of
all rights for so many
out so arranged that
the villagers should be
able to grow their cattle
and firewood without
interference in any way.
Hence the necessity of
laws so as to be difficult to
enforce.

Regulation
are necessary for exercise
of community rights
between villages - but
none as between village
and state.

Restrictions upon
prohibition of cutting
wood for cart wheels
or purposes.

Communitarian of
desirable in some cases
and then the consent of
the majority of the vil-
lagers shall obtain.
These men are present
in all the villages in
which the village were for-
merly vested. Some
amounts in capital.

2 penalties
1 if any individual
2 if any village

3. Private Forests.

Public necessity the
only reason for interference
on part of State. Forest
is preservation of forest
for domestic & irrigation
purposes. There is no need
to prevent the use of
the area for ordinary
purposes. For example
cattle browsing, grazing,
digging for lime stone
&c. It follows there-
fore that Govt need not
conserve every thing -
therefore need not in-
terfere in demarcation. In
forest the Govt shall be
demarcated within and
be in the same mode
the right for conservation
forest over a specified
area provide a small
income for him & here
we get nothing before. He
shall agree not to clear
down certain demar-
cated limits - retaining
all other villages. Such
a provision of made
agreements with demar-
cated person accomplish-
ment - & there is confisca-
tion threats (as in P. 1, 2,
etc) will induce them to cut
their wood at once and
realize all that was due.

It would be necessary
to make it compulsory
in Govt & in a manner
which a demarcated
might have acquired.

Demarcation within
Govt Private Forest in
forest not not dig-
cult. The question of
possession of land
on exercise of grazing
much like rights. In
cases can be removed
can generally be effec-
ed. No violation of
needful for demarcation
in cases except and
in the forest the Govt
shall be demarcated
officers.

To the Govt, the
lowest of the state
not without a law
not be committed

39
In dealing with this
question, there are three
classes of Forest to be
considered - "State",
"Village", and "private".
It is of essential im-
portance to the Public
that all Forest cov-
ering the sources of
rivers, and streams,
or protecting their
Banks, should be
preserved.

A very large portion
however of the
Forests of this Pres-
idency are private
property of
Zemindars.

or others, with such
property the Govern-
ment have no right
to interfere either as
regards its Cultiva-
tion, or appropriation
unless any portion
of the Land be re-
quired for some
public purpose -
When it may be taken
up under Act of 1871.
The protection how-
ever of river banks
and sources of supply
is not only a public
necessity, but is
beneficial to the
States in which
such

are situate; there
appears therefore to
be good reason for
an enactment pro-
hibiting the felling,
or clearing of any
Forest or Jungle,
within a distance
of, say 50 yards from
the outer-most mar-
gin of any ^{river} water
stream, natural
water-course; or
spring, and that
this prohibition
may apply without
hardship to all lands,
public, or private,
with perhaps, some
exception in the
Case of sovereign

o Residences—

11 Should it be found
 12 essential to public
 13 interest to preserve
 14 an area of Forest
 15 covering the head
 16 waters of any river
 17 or rivers, and which
 18 is found to be pri-
 19 vate property, then
 20 power should be
 21 given to compensate
 22 for the easement,
 23 or reservation of
 24 the forest, leaving
 25 the ownership of
 26 the soil, and all
 27 other Customary
 28 rights.

or Village forests,
 provided that such
 Zemindar, or owner
 shall have appoint-
 ed proper persons
 to grant permits,
 or passes

Clause XLI

Any forest's rights
may be commuted
by mutual agree-
ment, provided
that consent by
the Village, or com-
munity shall not
be valid, or legally
binding, unless signed
by a majority of
the resident house-
holders, or cultivators
of such village.

G.O. 25 March 1879
No. 724.

any forest
legally commuted

*Village
Forest*

Government may by
notification in the
District Gazette, and
^{after} proclamation in
all villages surround-
ing or having rights
in any village forest
to close for the
purpose of pro-
tecting young
growth any pre-
scribed area not
exceeding four
square miles in one
block provided that
no two adjacent
blocks be closed
at

or the same period
and that at least
four-fifths of every
village forest be left
open

G.C. 25 March 1879
N^o 724

to leasing the rights. But such
reservation shall not interfere with
any ~~rights~~ the use of the land of Forest to be dealt with
or with the digging for any
Mineral

There are three classes
1 State
2 Village
3 Private

It is of importance to the
public interest that all
Forest affecting ~~any~~ coming
Fountains of rivers or the water
sources should be kept unimpaired
it is of ultimate benefit to
the private owner that such
should be the law -

A very large portion of the
Fruits of this Presidency are
private or semi-private property -

Govt. have no right to
interfere with the management
or cultivation of such
property - except by taking
up for any public purpose
such land in due form under

Dec 13/71

It is of the utmost importance
that the feeling of private
owners should in such a
matter be in support &
cooperation of Government -
and that they should not be
alarmed by any idea
of their property being
extensively appropriated
for ~~the interests of the public~~

Such a feeling might
not only lead not
only to grave discontent but
to hearty realisation of fruit
& cutting or leaving - compelling
the government always existing
and compelling Govt. as it were
to pay very large ~~compensation~~ ^{sums as}

It appears to me
known that there would be no
harship in prohibiting the
charance or cutting of any
timber within say 50 yards
of any river stream or natural
water course or source -
whether in private village or
State Forest or land - &
subject to an exception in
immediate proximity to any
dwelling of the owner -

Beyond that I think it would
be impossible to interfere with
private Forest - further
than declaring that if
Govt. desire it to be surveyed
in the public that any owner
owning the land of any river
shall be
to be surveyed - Govt. shall be
authorised to take any action for

Cattle can feed in
the forest or jungle - to
extinguish such right
means reduction of the
value of adjacent
land -

If my colleagues
I gather from their
letter concur with me in
general opinion that the
bill proposed is quite
unwarranted & inapplicable
to Madras. I think
we had better say so
at once & if possible
prevent even the discussion
as for Madras of so
arbitrary & ~~unwarranted~~
measures & not

specially for the Bombay
Presidency. He trusts, however
that there is no reason to
apprehend that the action
which his Govt. with the full
cognizance of the Govt. of India,
has already taken in the
matter, may not finally be
approved. But as it is pro-
posed to introduce shortly
a Forest Bill, framed by
the Committee appointed
under the orders of Govt. -
17 Sept 1875 No 1371 - into the
local Legislature, it is
necessary that it should be
settled at once, before
further steps are taken,
whether special local
legislation will be permitted.
Moreover considering the
peculiarities of the land
tenures

leave it to be said however
that we have even
disputed the propriety
of suspecting the cartier
who allows his bony
bullwhips to bite the backs
of a man to be suspected
of 6 months imprisonment
and a fine of 500 roubles

Bill 9/12

holding

of the preceding by a very
 & extensive carefully
 & determined ^{from} the question
 of the existence of

holding that the regulation and conswancy of the forests of this Peninsula, subject as they are in most cases to numerous communal rights or peculiar usages, amounting almost to rights, is a fit subject for local legislation, equally with those public necessities which are dealt with under Municipal, Local Fund or Village Cess Acts. We doubt the practicability, or expediency, even if practicable, of framing a general Forest Law for India so comprehensive as to cover the various immemorial privileges and rights of the people in most of the jungles. A law suitable to the conditions existing in the South, must have for its basis a free admission of the rights of the people in these Forest-tracts (in which they have for generations exercised rights) and not the simple assertion of the paramount and exclusive propriety

property rights of the
State - on which basis
all the Bills for Indian Forests,
heretofore proposed, have
been framed. Moreover
it should have for its
end, as regards the District
or village Forests, not the
creation of a fresh imperial
source of revenue, but
their conservancy; and
the expenditure of
any surplus revenue
derived therefrom
upon the formation of
tapes, avenues, —
or other similar objects
connected with the

lot and happiness

89
will apply the strictest
penal rules laid down for
the reserved Forests; to the
latter penal provisions of
a somewhat milder type.

His Grace the Governor
in Council does not hesitate
to affirm his conviction that
any attempt to apply a
procedure of so sweeping
and ^{summary} ~~confiscatory~~ a character
to many of the forests and
jungles would cause
great popular discontent,
and would entail risk
of grievous oppression, ^{being}
having a tendency to
demoralise a whole rural
population, by suddenly
converting into offences,
acts connected with their
daily

daily labour and suffer,
which from generation to
generation they at least
have regarded as their
customary rights and
privileges. The procedure
demanded for this Presidency
is the very reverse of that
indicated. It should
begin by infringing no
right or servitude, but
by ascertaining how far
any right claimed extends,
how long it has been
exercised, how far its
abrogation or curtailment
would interfere unne-
-cessarily with the well being
comfort and happiness
of the people; and when
all

all the portions of a
forest so situated have
been ascertained, then to
mark off the remaining
portion over which gov^t
as sovereign, has absolute,
undisputed and unen-
-cumbered right. From
this point, working back
again, it should settle
how far, in the interest
of the State, the tracts in
which the existence of
prescriptive rights
has been proved,
should be reserved
by the partial or
entire relinquishment
of those rights, in legal
course, and by grant of
full

as full compensation in a
w. form most conducive
to the well being and
g. happiness of the com-
munities affected. A
Law so framed would
in the opinion of this
Govt prove a great
benefit to the State
and people, and it is
needless to say that
the policy so stereotyped
might not be applicable
to other parts of the
Indian Empire. But
it is manifest that
it would be impossible
to find expression for
it in law framed on
the

The Bill forwarded
is substantially the same
as that reviewed in
the Proc. of the Board of Rev.
in 1872 and
in the Proceedings of the
same body Nov 1873-
which the Govt. has adopted.
The Govt. is satisfied that
further discussion with local
bodies & persons will lead
to the same result - in the
modification of the Bill as
submitted to this Council.

See letter explicitly to
the Pres. Bd. of Rev. on the
subject. W.B.

W.B.

the principles adopted
by the Govt. of India in
the Bill now under review.

I am to request
the favour of an early
reply to this letter,
pending which the
Bill will not be
communicated to the
Forest and Revenue
Depts for opinion.

A copy of this communication will be
furnished to His Majesty's Secy.

Revenue Department

To
The Secretary to the Govt of India
Dept of Revenue, Agriculture
and Commerce

Sir,

In acknowledging the receipt of your letter No ³²/₁₁₃₀ 21st Oct^r 1876 forwarding for the opinion of this Govt copies of a General Forest Bill, I am directed to observe that it is not evident whether the Govt of India contemplate the extension of the Act, when it becomes law, to this Presidency, or whether the views of this Govt in regard to the expediency of local legislation have the approval of the Supreme

Govt

J. C. 25 March 1879
No 724

R.C. 11: Dec;
C. 21: Nov 76 R 9: Dec:

Govt.

His Grace the Governor
in Council desires that
he may be favoured with
a definite expression of
the opinion of the Right
Honble the Viceroy in
Council on the latter
point.

It has been noted
that in the above letter,
as well as in your letter
of the 11th Decr. 1875, no
mention is made of the
views of the Govt. of India
on this important question,
although special reference
is made to the propriety
of legislating specially
for the Bombay Presidency.
His Grace the Governor
Trusts

Trusts, however, that there
is no reason to apprehend
that the action which his
Govt., with the full cogni-
-zance of the Govt. of
India, has already
taken in the matter, may
not finally be approved.
But as it is proposed to
introduce shortly a Forest
Bill, framed by the
Committee appointed
under the orders of Govt.
17 Sept. 1875, No. 1371 -
into the local legislature,
it is necessary that it
should be settled at
once, before further steps
are taken, whether special
local legislation will

be

be permitted.

But whilst seeking this expression of the views of the Govt. of India, I am to state that His Grace the Governor in Council would regard with deep regret a decision adverse to local legislation, holding that the regulation and conservancy of the forests of this Peninsula, subject as they are in most cases to numerous communal rights or peculiar usages, amounting almost to rights, is a fit subject for local legislation, equally with those public necessities

necessities which are dealt with under Municipal, Local Fund or Village Cess acts. He doubts the practicability, or expediency of framing a general Forest Law for India so comprehensive as to cover the various immemorial privileges and rights of the people in most of the jungles. A law suitable to the conditions existing in the south must be preceded by a careful examination and determination of the question of the existence of the rights of the people in the Forests, and not be based on the simple assertion

assertion of the paramount
and exclusive proprietary
rights of the State - on which
basis all the Bills for
Indian Forests Acts, hereto-
fore proposed, have been
framed. Moreover, it
should in many cases
have for its end, as
regards the District
or village Forests, not
necessarily the creation of
of a fresh imperial source
of revenue, but their con-
servancy, and the expendi-
-ture of any surplus revenue
derived therefrom upon the
formation of lanes, avenues,
or other similar objects
connected with the
comfort of the people.

In

In a recent local
Bill legislation, the
Governor has
pointed out that such a
course seems quite
consonant to the views
hitherto expressed by
Secretaries of State. In his
Despatch 15. August 1873
N. 23, the Secy of State
expresses his "desire that
the administration of the
Forest should be left
as hitherto entirely to the
local Governments;" and
in accordance with the
principles of Provincial
management, whilst
repeating in his despatch
of 27. May 1870 the decision
of

of this Government's adverse
to the introduction of a
Forest Act, the Secretary of
State ^{not} only refrained
from ^{expressing} an opinion in favor
of a general law, but in
para 7, whilst leaving
it to the local Govt. to
settle what methods could
be best suited to regulate
or abrogate the rights of
villagers or individuals
in forests, has admitted
that it might probably
be desirable to apply an
Act passed for this
purpose ^{only} gradually to the
several Districts.

His Grace the Governor
does not desire now
to review in detail the
draft

draft Bill forwarded
for opinion, but he
would simply point
out how inapplicable
the procedure laid down
in the II and III Chapters
of that Bill is to this
Residence, wherever
the forests and trees
are within village boundaries
and subject to the
prescriptive rights of
the villagers.

The procedure laid down
as regards Reserved Forests,
seemingly, is, to mark
out the boundaries without
inquiring of any kind
whatever. Then follows
the issue of a Notification

Section 5.

- a declaring (1) that it
is proposed to reserve
the first demarcated
(2) specifying the boundaries
of such first
(3) appointing a settlement
officer.

Between the time of the
issue of this Certificate
and the final settlement,
a period which need not
necessarily exceed 3 months,
not only shall no fresh
rights be acquired in the
tract, but no fresh
clearings shall be made
therein, and, further,
if no claim is preferred
within this period, it

shall be deemed & extinguished. Section 9.
with

With claims to or
over any land, the
Settlement officer may
proceed under the Land
Acquisition Act, 1870, or,
if it is only a claim to
rights of way, pasture,
or fresh produce, he may
deal with it summarily,
admitting, rejecting or
modifying the claim.
With claimants whose rights
have been admitted or
modified, he is to make
such arrangements in the
way of compensation, exchange,
or commutation as ^{he} may deem
proper, having due regard to
the maintenance of
the Reserved Tracts.
From these orders

an appeal is allowed. Sections 16 and 17

ones and above these
where a Trust Office is
at liberty to stop water -

courses & ways, public or
private, on certain conditions

without formal inquiry
on the simple

approval of Govern.

- consent - Provision

is then made for

the grant of village

and District forests

by simple notification,

without any inquiry,

and the farmer

will

3

in the private owner,
so that he will only
be in the position
of a Landlord, hav-
ing leased the cul-
tivation of his land
to the Government
as Tenant:

Clause 4 (b) (1) (2) 153

~~Section 4~~
~~Chapter 17~~
~~Proclamation~~

After the passing of
this Act, it shall not
be lawful for any
person, whether owner
or otherwise, to cut,
burn, or otherwise
injure, or destroy
any timber, brush-
wood, or bamboos
growing within
a distance of 50 yards
from the margin
of any river, stream,
natural water course
or spring of water
except within
yards of
the dwelling house
of

150

any landlord,
or owner of not
less than ^{causes}
around a such house

Amendments

Clause III Para III - Omit - proviso
Para IV + V - Paramount to be
deferred.

Clause VIII & IX — Substitute 3 for 1

Clause XII Add "and cause them to
be marked on the Village
map"

Clause XXXIII — Omit "For the purpose
of inspection, or"

Clause XXXIV & XXXVI - Omit

Clause XXXVII — Omit para. 1 & 4

Para II - Omit "of the slopes of
mountains, and"

Clause XL — Omit

Clause XLII Alter "to require Govern-
ment to provide, and
maintain all boundary
marks of State forests"

to apply to the

Clause XLVI

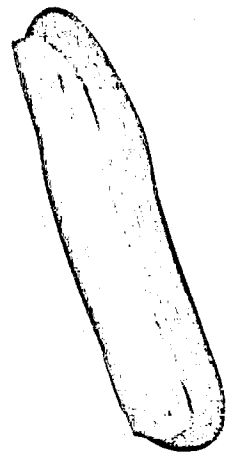
It shall be lawful
for any forest Officer
to stop any timber
or forest produce,
at any point within
4 miles of the bound-
ary of any ^{State or Village} forest,
for the purpose of
ascertaining that
the regulations of
this act have been
complied with.

XLVII

Any Zamindar or
proprietor of private
forest who shall
be desirous of closing
for the purpose
of

protecting young
growth in his for-
est, or of extending
the same by plant-
ing may apply to,
and obtain from
Government, an
order, closing such
area not exceeding
square miles

at any one time,
and while any area
so remains closed
shall be entitled to
the same protection
as regards timber
and produce, as is
accorded to Govern-
ment-



clause 3.

57
Insert proviso - to "Forest"
in 3. para - because
it would interfere with all
present action -

Suggest in para 4. "to the
soil are absolute" for "an
incumbent"
and in para 5. insert
"The full produce of which is
after 'fruit' in line 1

para.
and ~~for~~ in "Private Lands"
some better definition of property

It shall not be lawful for
any person or owner to
cut or clear timber
brushwood or Samsos
within 50 yards ^{from the}
Margin of any river stream
or natural water course
without permission from
the Collector of the district or
~~Forest Officer~~
Except within 100 yards of
the dwelling house of such
owner -

If it shall appear to Govt
that ~~it is~~ it is necessary
for the protection of the water-
~~supply~~ sources & supply in
any stream or river that
the cutting clearing or
of any Forest area be
prohibited.

Private Fruits

30 mit.

31

2

3

4

5

6

37. 1. mit.

2 mit

3 ~~3~~ set

4 mit.

5 mit.

Revenue Dep^t

To

The Secretary to the Gov^t. of India
Dep^t of Revenue, Agriculture
and Commerce.

Sir,

In acknowledging the receipt of your letter No. $\frac{32}{1130}$ 21st October 1876 forwarding for the opinion of this Gov^t copies of a General Forest Bill, I am directed to inquire whether or not the Gov^t of India contemplate the extension of the Act, when it becomes Law, to this Presidency - or whether the views of this Gov^t in regard to the expediency of local legislation have the approval of the Supreme Gov^t.

I do not see the especial object of the proposed mode of procedure - a general Bill is proposed - which may be in whole or in part from time to time applied to various territory -
The whole tenor of the

His

His Grace the Governor in Council desires that he may be favored with a definite expression of the opinion of the Right Honble the Viceroy in Council on these points, as it is evident that the Bill now forwarded cannot be appropriately criticised until its territorial scope is defined.

Moreover His Grace the Governor observes that in the above letter, as well as in your letter of the 11th Decr 1875, no mention is made of the views of the Gov^t of India on this important question, although special reference is made to the propriety of legislating specially

of the Bill seems to be inapplicable to the case of the Madras Presidency. However it may suit some further districts -

The main principle & foundation of the Bill is the extinction of all rights in Forests of the Government or to reserve any forest produce -

but the suppression & abuse of rights of the Government seems an important point. The collection of forest revenue is a valuable branch

will apply the strictest penal rules laid down for the reserved forest; to the latter penal provisions of a somewhat milder type. His Grace the Governor in Council is of opinion that any attempt to apply a procedure of so sweeping and summary a character to many of the forests and jungles of this Presidency may not improbably create great popular discontent and would entail risk of serious oppression, besides having a

a tendency to demoralise
a whole rural population,
by suddenly converting
into offences, acts connected
with their daily labours
and life which from
generation to generation
they at least have
regarded as their customary
rights and privileges. The
proceedings demanded for
this Presidency is the very
reverse of that indicated -
It should begin by
infringing no right, but
by ascertaining how far
any right claimed
extends, how long it has
been exercised, how
far its abrogation
or

or curtailment would
interfere unecessarily
with the well-being of
the people; and when
the portions of a forest
so situated have been
ascertained, then to
mark off the remaining
portion over which Gov.
as Sovereign, has absolute
undisputed, and un-
incumbered rights.
From this point, working
back again, it should
settle how far, in the
interest of the State, the
tracts in which the
existence of prescriptive
rights has been proved,
should be reserved by the
the

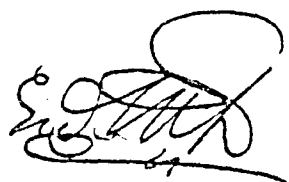
the partial or entire
relinquishment of those
rights, in legal course,
and by grant of full
compensation in a form
most conducive to the
well being of the communities
affected. A Law so
framed, would, in the
opinion of this Govt., prove
a great benefit to the
State and people. This
policy may doubtless
not be applicable to
other parts of the Indian
Empire; but it is manifest
that it would be im-
possible to find
exception for it in a
Law

Law framed on the
principle adopted
by the Govt. of India in the
Bill now under review
The Bill forwarded is
substantially the same
as that reviewed in the
Proceedings of the Board of
Revenue, in 5th August 1871.
and in the Proceedings of the
same body September 1871.
The Board view this Govt. have adopted
in their order dated 17th September 1875 No. 1371 -
The Govt. is satisfied
that further discussion
with local bodies
and officers will lead
to the same result,
viz: the rejection of the
Bill

Bill as submitted
to this Presidency.

A copy of this
communication will
be furnished to Her
Majesty's Government

to
the



The Hon. Secy. of War
General T. A. B. B.

1.
 to
 Mr.
 Mr.
 Mr.

*Received from the Secretary
 of War the sum of \$100.00
 for the purchase of 100 lbs
 of powder.*

*Received from the Secretary
 of War the sum of \$100.00
 for the purchase of 100 lbs
 of powder.*

For

*Dept. and 1-25d
 in accordance
 with instructions*

*100 lbs of powder
 100 lbs of powder*

*Received from the Secretary
 of War the sum of \$100.00
 for the purchase of 100 lbs
 of powder.*

MEMO.

97

To

Return to

W. H. C. 2/4/79

ACT No. VII OF 1878.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 8th March 1878.)

THE INDIAN FOREST BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
Commencement.
Extension.
Repeal of enactments.
2. Interpretation-clause.

CHAPTER II.

OF RESERVED FORESTS.

3. Power to reserve forests.
4. Notification by Local Government.

5. Bar

[PRICE, 5 ANNAS.]

is chartered by - 1877 - 1878
70.

ACT No. VII of 1878.

SECTIONS.

5. Bar of accrual of forest-rights.
6. Proclamation by Forest Settlement Officer.
7. Enquiry by Forest Settlement Officer.
8. Powers of Forest Settlement Officer.
9. Extinction of rights.
10. Power to acquire land over which right is claimed.
11. Order on claims to rights of pasture or to forest-produce.
12. Record to be made by Forest Settlement Officer.
13. Record where he admits claim.
14. Exercise of rights admitted.
15. Commutation of rights.
16. Appeal from order passed under Section 10, 11, 14 or 15.
17. Appeal under Section 16.
18. Pleadings.
19. Notification declaring forest reserved.
20. Publication of translation of such notification in neighbourhood of forest.
21. Power to revise arrangement made under Section 14 or 17.
22. No right acquired over Reserved Forest, except as here provided.
23. Rights not to be alienated without sanction.
24. Power to stop ways and water-courses in reserved forests.
25. Acts prohibited in such forests.
26. Power to declare forest no longer reserved.

CHAPTER III.

OF VILLAGE-FORESTS.

27. Formation of village-forests.

CHAPTER IV.

OF PROTECTED FORESTS.

28. "Protected Forests."
29. Power to issue notification—
 - (a) reserving trees,
 - (b) closing forest,
 - (c) prohibiting collection of forest-produce, &c., breaking up or clearing of land.
30. Publication of translation of such notification in neighbourhood.
31. Power to make rules for protected forests.
32. Penalties for acts in contravention of notification under Section 29.
33. Nothing in this chapter to prohibit acts done in certain cases.

CHAPTER

ACT No. VII of 1878.

CHAPTER V.

FORESTS UNDER CONSERVANCY ADMINISTRATION WHEN THIS ACT COMES INTO FORCE.

SECTIONS.

34. Forests under conservancy administration when this Act comes into force.

CHAPTER VI.

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.

35. Protection of forests for special purposes.
36. Power to assume management of forests.
37. Expropriation of forests in certain cases.
38. Protection of forests at request of owners.

CHAPTER VII.

OF THE DUTY ON TIMBER.

39. Power to impose duty on timber.
- Power to fix value for *ad valorem* duty.
40. Limit not to apply to purchase-money or royalty.

CHAPTER VIII.

OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT.

41. Power to make rules to regulate transit of forest-produce.
42. Penalty for breach of rules made under Section 41.
43. Government and Forest-officers not liable for damage to forest-produce at depôt.
44. All persons bound to aid in case of accident at depôt.

CHAPTER IX.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

45. Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly.
46. Notice to claimants of drift-timber.
47. Procedure on claim preferred to such timber.
- On rejection of claim to such timber, claimant may institute suit.
48. Disposal of unclaimed timber.

49. Government

ACT No. VII of 1873.

SECTIONS.

49. Government and its officers not liable for damage to such timber.
50. Payments to be made by claimant before timber is delivered to him.
51. Power to make rules and prescribe penalties.

CHAPTER X.

PENALTIES AND PROCEDURE.

52. Seizure of property liable to confiscation.
53. Application for confiscation.
54. Procedure thereupon.
55. Forest-produce, tools, &c., when liable to confiscation.
56. Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.
57. Procedure when offender not known, or cannot be found.
58. Procedure as to perishable property seized under Section 52.
59. Appeal from orders under Sections 54, 55 and 56.
60. Property when to vest in Government.
61. Power to release property seized.
62. Saving of power to release property seized.
63. Punishment for wrongful seizure.
64. Punishment for counterfeiting or defacing marks on trees and timber and for altering boundary-marks.
65. Power to arrest without warrant.
66. Power to prevent commission of offence.
67. Power to try offences summarily.
68. Operation of other laws not barred.
69. Power to compound offences.
70. Presumption that forest-produce belongs to Government.

CHAPTER XI.

CATTLE-TRESPASS.

69. Cattle-trespass Act, 1871, to apply.
70. Power to alter fines fixed by that Act.

CHAPTER XII.

OF FOREST-OFFICERS.

71. Local Government may invest Forest-officers with certain powers.
72. Forest-officers deemed public servants.
73. Liability for acts done in good faith.
74. Power to make rules.

CHAPTER

ACT No. VII of 1873.

5

CHAPTER XIII.

SUBSIDIARY RULES.

SECTIONS.

75. Additional powers to make rules.
76. Penalties for breach of rules.
77. Rules when to have force of law.

CHAPTER XIV.

MISCELLANEOUS.

78. Persons bound to assist Forest-officer and Police-officers.
79. Management of forests the joint property of Government and other persons.
80. Failure to perform service for which a share in produce of Government forest is enjoyed.
81. Recovery of money due to Government.
82. Lien on forest-produce for such money.
83. Land required under this Act to be deemed to be needed for a public purpose under Land Acquisition Act.

SCHEDULE.

An Act to amend the Law relating to Forests, the Transit of Forest-produce, and the Duty leviable on Timber.

WHEREAS it is expedient to amend the law relating to Forests, the transit of forest-produce and the duty leviable on timber; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Indian Forest Act, 1873."

It shall come into force at once in the territories respectively administered by the Governor of Bombay in Council, the Lieutenant-Governors of the Lower Provinces, the North-Western Provinces, and the Panjáb (except the District of Hazára), and the Chief Commissioners of Oudh, the Central Provinces and Assam.

Commencement.

2

And

And any other Local Government may from time to time, with the previous sanction of the Governor-General in Council, extend, by notification in the local official Gazette, this Act to all or any of the territories for the time being under its administration.

On and from the date on which this Act comes into force in any of the said territories, the enactments mentioned in the schedule hereto annexed shall be repealed in such territories. But all rules made under or validated by any of the said enactments and in force at the date of such repeal shall, so far as they are consistent with this Act, be deemed to have been made and published hereunder.

Interpretation-clause.

2. In this Act, unless there be something repugnant in the subject or context,—
 "Forest-officer" means any person whom the Governor-General in Council, or the Local Government or any officer empowered by the Governor-General in Council or the Local Government in this behalf, may from time to time appoint by name, or as holding an office, to carry out all or any of the purposes of this Act, or to do anything required by this Act or any rule made under this Act to be done by a Forest-officer:

"Tree." "Tree" includes bamboos, stumps and brushwood:

"Timber" includes trees and bamboos when they have fallen or have been felled, and all wood, whether cut up, or fashioned or hollowed out for cart-wheels, mortars, canoes or other purposes or not:

"Forest-produce." "Forest-produce" includes the following when found in, or brought from, a forest, that is to say,—
 [minerals (including limestone and laterite), surface soil, trees, timber, grass, peat, canes, creepers, reeds, leaves, moss, flowers, fruits, roots, juice, catechu, bark, honey, wax, lac, caoutchouc, gum, wood-oil, grass-oil, resin, varnish, silk-worms and cocoons, shells, skins, tusks, bones and horns:]

"Forest-offence." "Forest-offence" means an offence punishable under this Act, or under any rule made under this Act:

"Cattle" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids:

"River." "River" includes streams, canals, creeks and other channels, natural or artificial.

CHAPTER II. OF RESERVED FORESTS.

3. The Local Government may from time to time constitute any forest-land or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a Reserved Forest in the manner hereinafter provided.

4. Whenever

4. Whenever it is proposed to constitute any land a Reserved Forest, the Local Government may publish a notification in the local official Gazette—

- (a) declaring that it is proposed to constitute such land a reserved forest;
- (b) specifying the limits of such forest; and
- (c) appointing an officer (hereinafter called "the Forest Settlement Officer") to enquire into and determine the existence, nature and extent of any rights alleged to exist in favor of any person in or over any land comprised within such limits, or in or over any forest-produce, and to deal with the same as provided in this chapter.

Explanation 1.—For the purpose of Clause (b) of this section, it shall be sufficient to describe the limits of the forest by roads, rivers, ridges or other well-known or readily intelligible boundaries.

The officer appointed under Clause (c) of this section shall ordinarily be a person not holding any forest-office except that of Forest Settlement Officer.

Nothing in this section shall prevent the Local Government from appointing any number of officers not exceeding three, not more than one of whom shall be a person holding any forest-office except as aforesaid, to perform the duties of a Forest Settlement Officer under this Act.

5. During the interval between the publication of such notification and the date fixed by the notification under Section nineteen, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by or on behalf of Government or some person in whom such right was vested when the former notification was issued; and no fresh clearings for cultivation or for any other purpose shall be made in such land.

6. When a notification has been issued under Section four, the Forest Settlement Officer shall publish in the language of the country, in every town and village in the neighbourhood of the land comprised therein, a proclamation—

- (a) specifying the limits of the proposed forest;
- (b) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and
- (c) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right mentioned in Section four or five either to present to such officer within such period a written notice specifying, or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

7. The Forest Settlement Officer shall take down in writing all statements made under Section six, and shall, at some convenient place, enquire into all claims duly preferred under that section, and the existence of any rights mentioned in Section four or five and not claimed under Section six, so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

8. For

Powers of Forest Settlement Officer.

8. For the purposes of such enquiry, the Forest Settlement Officer may exercise the following powers, that is to say—

- (a) power to enter, by himself or any officer authorized by him for the purpose, upon any land, and to survey, demarcate, and make a map of the same; and
- (b) the powers of a Civil Court in the trial of suits.

9. Rights in respect of which no claim has been preferred under Section six, and of the existence of which no knowledge has been acquired by enquiry under Section seven, shall be extinguished, unless before the notification under Section nineteen is published the person claiming them satisfies the Forest Settlement Officer that he had sufficient cause for not preferring such claim within the period fixed under Section six.

10. In the case of a claim to a right in or over any land, other than a right of way or pasture or to forest-produce or a water-course, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.

If such claim is admitted in whole or in part, the Forest Settlement Officer shall either (1) exclude such land from the limits of the proposed forest; or (2) come to an agreement with the owner thereof for the surrender of his rights; or (3) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870.

For the purpose of so acquiring such land—

- (a) the Forest Settlement Officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1870;
- (b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under Section nine of that Act;
- (c) the provisions of the preceding sections of that Act shall be deemed to have been complied with; and
- (d) the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money.

Order on claims to rights of pasture or to forest-produce.

11. In the case of a claim to rights of pasture or to forest-produce, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.

Record to be made by Forest Settlement Officer.

12. The Forest Settlement Officer, when passing any order under Section eleven, shall record, so far as may be practicable,—

- (a) the name, father's name, caste, residence and occupation of the person claiming the right;
- (b) the designation, position and area of all fields or groups of fields (if any), and the designation and position of all buildings (if any), in respect of which the exercise of such rights is claimed.

13. If

13. If the Forest Settlement Officer admits in whole or in part any claim under Section eleven, he shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to graze in the forest, the season during which such pasture is permitted, the quantity of timber and other forest-produce which he is from time to time authorised to take or receive, or such other particulars as the case may require. He shall also record whether the timber or other forest-produce obtained by the exercise of the rights claimed may be sold or bartered.

14. After making such record, the Forest Settlement Officer shall, to the best of his ability, and having due regard to the maintenance of the the Reserved Forest in respect of which the claim is made, pass such orders as will ensure the continued exercise of the rights so admitted. For this purpose, the Forest Settlement Officer may—

- (a) set out some other forest-tract of sufficient extent, and in a locality reasonably convenient for the purposes of such claimants, and record an order conferring upon them a right of pasture or to forest-produce (as the case may be) to the extent so admitted; or
- (b) so alter the limits of the proposed forest as to exclude forest-land of sufficient extent, and in a locality reasonably convenient, for the purposes of the claimants; or
- (c) record an order, continuing to such claimants a right of pasture or to forest-produce (as the case may be), to the extent so admitted, at such seasons, within such portions of the proposed forest and under such rules as may from time to time be prescribed by the Local Government.

15. In case the Forest Settlement Officer finds it impossible, having due regard to the maintenance of the Reserved Forest, to make such settlement under Section fourteen as shall ensure the continued exercise of the said rights to the extent so admitted, he shall (subject to such rules as the Local Government may from time to time prescribe in this behalf) commute such rights, either by the payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as he thinks fit.

16. Any person who has made a claim under this Act, or any Forest-officer or other person generally or specially empowered by the Local Government in this behalf, may, within three months from the date of the order passed on such claim by the Forest Settlement Officer under Section ten, eleven, fourteen or fifteen, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Collector or Deputy Commissioner, as the Local Government may from time to time, by notification in the local official Gazette, appoint by name, or as holding an office, to hear appeals from such orders:

Provided that if the Local Government establishes (as it is hereby empowered to do) a Court (hereinafter called the Forest Court) composed of three persons to be appointed by the Local Government, such appeals shall be presented to such Court.

17. Every appeal under Section sixteen shall be made by petition in writing, and may be delivered to the Forest Settlement Officer, who shall forward it without delay to the authority competent to hear the same.

If the appeal be to an officer appointed under Section sixteen, it shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to land-revenue.

If the appeal be to the Forest-court, the Court shall fix a day and a convenient place in the neighbourhood of the proposed forest for hearing the appeal, and shall give notice thereof to the parties, and shall hear such appeal accordingly.

The order passed thereon by such officer or Court, or by the majority of the members of such Court, shall be final, subject to revision by the Local Government.

18. The Local Government, or any person who has made a claim under this Act, may appoint any person to appear, plead and act on its behalf before the Forest Settlement Officer, or the appellate officer or Court, in the course of any inquiry or appeal under this Act.

Notification forest reserved.

declaring

19. When the following events have occurred (namely),—

- (a) the period fixed under Section six for preferring claims has elapsed, and all claims (if any) made within such period have been disposed of by the Forest Settlement Officer; and
- (b) if such claims have been made, and the period limited by Section sixteen for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer or Court; and
- (c) all lands (if any) to be included in the proposed forest, which the Forest Settlement Officer has, under Section ten, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under Section sixteen of that Act,

the Local Government may publish a notification in the local official Gazette, specifying definitely, according to boundary-marks erected or otherwise, the limits of the forest which it is intended to reserve, and declaring the same to be reserved from a date fixed by such notification.

From the date so fixed, such forest shall be deemed to be a Reserved Forest.

20. The Forest-officer shall, before the date fixed by such notification, cause a translation thereof into the language of the country to be published in every town and village in the neighbourhood of the forest.

21. The Local Government may, within five years from the publication of any notification under Section nineteen, revise any arrangement made under Section fourteen or seventeen, and may, for this purpose, rescind or modify any order made under Section fourteen or seventeen, and direct that any one of the proceedings specified in Section fourteen be taken in lieu of any other of such proceedings, or that the rights admitted under Section eleven be commuted under Section fifteen.

22. No

22. No right of any description shall be acquired in or over a Reserved Forest, except by succession or under a grant or contract in writing made by or on behalf of the Government or of some person in whom such right was vested when the notification under Section nineteen was issued.

23. Notwithstanding anything contained in Section twenty-two, no right continued under Section fourteen, Clause (c), shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Local Government: provided that when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house.

No timber or other forest-produce obtained in exercise of any such right shall be sold or bartered except to such extent as may have been admitted in the order recorded under Section thirteen.

24. The Forest-officer may from time to time, with the previous sanction of the Local Government or of any officer duly authorized in that behalf, stop any public or private way or water-course in a Reserved Forest; provided, that a substitute for the way or water-course so stopped, which the Local Government deems to be reasonably convenient, already exists, or has been provided or constructed by the Forest-officer in lieu thereof.

Acts prohibited in such forests.

25. Any person who—

- (a) makes any fresh clearing prohibited by Section five, or
- (b) sets fire to a Reserved Forest, or kindles any fire in such manner as to endanger the same; or who, in a Reserved Forest,
- (c) kindles, keeps or carries any fire except at such seasons as the Forest-officer may from time to time notify in this behalf;
- (d) trespasses or pastures cattle or permits cattle to trespass;
- (e) causes any damage by negligence in felling any tree or cutting or dragging any timber;
- (f) fells, girdles, lops, taps or burns any tree, or strips-off the bark or leaves from, or otherwise damages, the same;
- (g) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process or removes, any forest-produce;
- (h) clears or breaks up any land for cultivation, or any other purpose; or,
- (i) in contravention of any rules which the Local Government may from time to time prescribe, kills or catches elephants, hunts, shoots, fishes, poisons water, or sets traps or snares;

shall be punished with imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees, or with both, in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

Nothing in this section shall be deemed to prohibit (a) any act done by permission in writing of the Forest-officer, or under any rule made by the Local Government; or (b) the exercise of any right continued under Section fourteen, Clause

Clause (c), or created by grant or contract in writing made by or on behalf of Government under Section twenty-two.

Whenever fire is caused wilfully or by gross negligence in a Reserved Forest, the Local Government may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest-produce shall be suspended for such period as it thinks fit.

26. The Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act shall cease to be a Reserved Forest.

Power to declare forest no longer reserved.

From the date so fixed, such forest or portion shall cease to be reserved; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

CHAPTER III.

OF VILLAGE-FORESTS.

27. The Local Government may from time to time assign to any village-community (the rights of Government to) or over any land which has been constituted a Reserved Forest, and may cancel such assignment. All forests so assigned shall be called Village-forests.

The Local Government may from time to time make rules for regulating the management of Village-forests, prescribing the conditions under which the community to which any such assignment is made may be provided with timber or other forest-produce, or pasture, and their duties for the protection and improvement of such forest.

[All provisions of this Act relating to Reserved Forests shall (so far as they are consistent with the rules so made) apply to Village-forests.]

CHAPTER IV.

OF PROTECTED FORESTS.

28. The Local Government may from time to time, by notification in the local official Gazette, declare the provisions of this chapter applicable to any forest-land or waste-land which is not included in a Reserved Forest, but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled.

The forest-land and waste-lands comprised in any such notification shall be called a "Protected Forest."

No such notification shall be made unless the nature and extent of the rights of Government, and of private persons in or over the forest-land or waste-land comprised

comprised therein have been enquired into and recorded at a survey or settlement, or in such other manner as the Local Government thinks sufficient.

Every such record shall be presumed to be correct until the contrary is proved.

Provided that, if in the case of any forest-land or waste-land, the Local Government thinks that such enquiry and record are necessary, but that they will occupy such length of time as that the rights of Government will in the mean time be endangered, the Local Government may (pending such enquiry and record) declare such land to be a protected forest, but so as not to abridge or affect any existing rights of individuals or communities.

Power to issue notification

reserving trees,

29. The Local Government may from time to time, by notification in the local official Gazette,—

(a) declare any class of trees, in a protected forest, or any trees in any such forest, to be reserved from a date fixed by such notification;

(b) declare that a portion of such forest, be closed for such term not exceeding twenty years as the Local Government thinks fit, and that the rights of private persons (if any) over such portion shall be suspended during such term; provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the rights suspended in the portion so closed; existing thereunder

prohibiting collection of forest-produce, &c.

and breaking up or clearing of land.

(c) prohibit, from a date fixed as aforesaid, the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or removal, of any forest-produce, in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, any land in any such forest: and

(d) alter or cancel such declaration or prohibition.

30. The Collector, or Deputy Commissioner, of the district shall cause a translation into the language of the district, of every notification issued under Section twenty-nine, to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest comprised in the notification.

Power to make rules for protected forests.

31. The Local Government may from time to time make rules to regulate the following matters:—

- the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce, from protected forests;
- the granting of licenses to the inhabitants of towns and villages in the vicinity of protected forests to take trees, timber or other forest-produce for their own use, and the production and return of such licenses by such persons;
- the granting of licenses to persons felling or removing trees or timber or other forest-produce from such forests for the purposes of trade, and the production and return of such licenses by such persons;

- (d) the payments (if any) to be made by the persons mentioned in Clauses (b) and (c) of this section, for permission to cut such trees, or to collect and remove such timber or other forest-produce;
- (e) the other payments, (if any) to be made by them in respect of such trees, timber and produce, and the places where such payments shall be made;
- (f) the examination of forest-produce passing out of such forests;
- (g) the clearing and breaking up of land for cultivation or other purposes in such forests;
- (h) the protection from fire of timber lying in such forests and of trees reserved under Section twenty-nine;
- (i) the cutting of grass and pasturing of cattle in such forests;
- (j) killing or catching elephants, hunting, shooting, fishing, poisoning water, and setting traps or snares in such forests;
- (k) the protection and management of any portion of a forest closed under Section twenty-nine;
- (l) the exercise of rights referred to in Section twenty-eight.

Penalties for acts in contravention of notification under Section 29.

32. Any person who commits any of the following offences:—

- (a) fells, girdles, lops, taps or burns any tree reserved under Section twenty-nine, or strips off the bark or leaves from, or otherwise damages, any such tree;
 - (b) contrary to any prohibition under Section twenty-nine, quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce;
 - (c) contrary to any prohibition under Section twenty-nine, breaks up or clears for cultivation or any other purpose any land in any protected forest;
 - (d) sets fire to such forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any trees reserved under Section twenty-nine, whether standing, fallen or felled, or to any closed portion of such forest;
 - (e) leaves burning any fire kindled by him in the vicinity of any such trees or closed portion;
 - (f) fells any tree or drags any timber so as to damage any tree reserved as aforesaid;
 - (g) permits cattle to damage any such tree;
 - (h) infringes any rule made under Section thirty-one;
- shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

33. Nothing in this chapter shall be deemed to prohibit any act done with the permission in writing of the Forest-officer, or in accordance with rules made under Section thirty-one, or (except as regards any portion of a forest closed under Section twenty-nine) in the exercise of any right recorded under Section twenty-eight.

CHAPTER

33½ Any forest rights may be commuted by mutual agreement provided that such agreement shall not be valid unless signed by a majority of the full-blooded members of such village or community.

Handwritten notes in the right margin, likely a translation or commentary on the Act. The text is written in a cursive script and covers most of the right page.

CHAPTER IV.

FORESTS UNDER CONSERVANCY ADMINISTRATION WHEN THIS ACT COMES INTO FORCE.

34. Within twelve months from the date on which this Act comes into force in the territories administered by any Local Government, such Government shall, after consideration of the rights of the Government and private persons in all forest-lands or waste-lands then under its executive control for purposes of Forest Conservancy, determine which of such lands (if any) can, according to justice, equity and good conscience, be classed as Reserved Forests or Protected Forests under this Act, and declare, by notification in the local official Gazette, any lands so classed to be Reserved or Protected Forests, as the case may be:

Provided that such declaration shall not affect any rights of the Government or private persons to or over any land or forest-produce in any such forest, which have, previous to the date of such declaration, been enquired into, settled and recorded in a manner which the Local Government thinks sufficient:

Provided also that if any such rights have not been so enquired into, settled and recorded, the Local Government shall direct that the same shall be enquired into, settled, and recorded in the manner provided by this Act for Reserved or Protected Forests, as the case may be; and until such enquiry, settlement and record have been completed, no such declaration shall abridge or affect such rights.

CHAPTER V.

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.

35. The Local Government may from time to time, by notification in the local official Gazette, regulate or prohibit in any forest or waste-land—

- (a) the breaking up or clearing of land for cultivation;
- (b) the pasturing of cattle;
- (c) the firing or clearing of the vegetation;

when such regulation or prohibition appears necessary for any of the following purposes:—

- First.—For protection against storms, winds, rolling stones, floods and avalanches;
- Second.—For the preservation of the soil on the ridges and slopes, and in the valleys, of hilly tracts, the prevention of landslips and of the formation of ravines and torrents, and the protection of land against erosion, or the deposit thereon of sand, stones or gravel;
- Third.—For the maintenance of a water-supply in springs, rivers and tanks;
- Fourth.—For the protection of roads, bridges, railways and other lines of communication;
- Fifth.—For the preservation of the public health;

and may alter or cancel such notification.

The

It is a compulsory on Govt to buy up any right which a landholder private person or body may have acquired in the area affected by the Chap 6.

The Local Government may, for any such purpose, construct at its own expense, in or upon any forest or waste-land, such work as it thinks fit:

Provided that no such notification shall be made or work begun until after the issue of a notice to the owner of such forest or land, calling on him to show cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, and until his objections (if any) and any evidence he may produce in support of the same have been heard by an officer duly appointed in that behalf, and have been considered by the Local Government.

36. In case of neglect of, or wilful disobedience to, any regulation or prohibition under Section thirty-five, or if the purposes of any work to be constructed under that section so require, the Local Government may, after notice in writing to the owner of such forest or land, and after considering his objections (if any), place the same under the control of a Forest-officer, and may declare that all or any of the provisions of this Act relating to Reserved Forests shall apply to such forest or land.

The nett profits (if any) arising from the management of such forest or land shall be paid to the said proprietor.

37. In any case under this chapter in which the Local Government considers that, in lieu of placing the forest or land under the control of a Forest-officer, the same should be acquired for public purposes, the Local Government may proceed to acquire it in the manner prescribed by the Land Acquisition Act, 1870.

The owner of any forest or land comprised in any notification under Section thirty-five may, at any time not less than three or more than twelve years from the date thereof, require that such forest or land shall be acquired for public purposes, and the Local Government shall acquire such forest or land accordingly.

38. The owner of any land or, if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to at least two-thirds thereof may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector or Deputy Commissioner their desire—

(a) that such land be managed on their behalf by the Forest-officer as a Reserved or a Protected Forest on such terms as may be mutually agreed upon; or

(b) that all or any of the provisions of this Act be applied to such land.

In either case, the Local Government may, by notification in the local official Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

Any such notification may be altered or cancelled by a like notification.

CHAPTER VII.

OF THE DUTY ON TIMBER.

39. The Local Government, with the previous sanction of the Governor-General in Council, may levy a duty in such manner, at such places, and at such rates, as it may from time to time prescribe by notification in the local official Gazette on all timber—

Power to impose duty on timber.

(a) which

(a) which is produced in British India, and in respect of which the Government has any right;

(b) which is brought from any place beyond the frontier of British India. In every case in which such duty is directed to be levied *ad valorem*, the Local Government may, with the like sanction, from time to time fix, by like notification, the value on which such duty shall be assessed.

Power to fix value for *ad valorem* duty.

All duties on timber, which, at the time when this Act comes into force in any territory, are levied therein under the authority of the Local Government, shall be deemed to be and to have been duly levied under the provisions of this Act.

40. Nothing in this chapter shall be deemed to limit the amount (if any) chargeable as purchase-money or royalty on any timber or other forest-produce, although the same is levied on such timber or produce while in transit, in the same manner as duty is levied.

Limit not to apply to purchase-money or royalty.

CHAPTER VIII.

OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT.

41. The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber and other forest-produce in transit by land or water, is vested in the Local Government, and it may from time to time make rules to regulate the transit of all timber and other forest-produce.

Power to make rules to regulate transit of forest-produce.

Such rules may (among other matters)—

(a) prescribe the routes by which alone timber and other forest-produce may be imported, exported or moved, into, from, or within, British India;

(b) prohibit the import and export or moving of such timber or other produce without a pass from an officer duly authorized to issue the same, or otherwise than in accordance with the conditions of such pass;

(c) provide for the issue, production and return of such passes and for the payment of fees therefor;

(d) provide for the stoppage, reporting, examination and marking of timber or other forest-produce in transit, in respect of which there is reason to believe that any money is payable to Government on account of the price thereof, or on account of any duty, fee, royalty or charge due thereon, or to which it is desirable for the purposes of this Act to affix a mark;

(e) provide for the establishment and regulation of depôts to which such timber or other produce shall be taken by those in charge of it for examination, or for the payment of such money, or in order that such marks may be affixed to it; and the conditions under which such timber or other produce shall be brought to, stored at, and removed from, such depôt;

(f) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest-produce, and the throwing of grass, brushwood, branches and leaves into any such river, or any act which may cause such river to be closed or obstructed;

(g) provide

- (g) provide for the prevention and removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person whose acts or negligence necessitated the same;
- (h) prohibit absolutely or subject to conditions, within specified local limits, the establishment of saw-pits, the converting, cutting, burning, concealing or marking of timber, the altering or effacing of any marks on the same, and the possession or carrying of marking-hammers or other implements used for marking timber;
- (i) regulate the use of property-marks for timber, and the registration of such marks; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

42. The Local Government may by such rules prescribe as penalties for the infringement thereof imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

Double penalties may be inflicted in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or if the offender has been previously convicted of a like offence.

43. The Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a depôt established under a rule made under Section forty-one, or while detained elsewhere for the purposes of this Act; and no Forest-officer shall be responsible for any such loss or damage unless he causes such loss or damage negligently, maliciously or fraudulently.

44. In case of any accident or emergency involving danger to any property at any such depôt, every person employed at such depôt whether by the Government or by any private person, shall render assistance to any Forest-officer or Police-officer demanding his aid in averting such danger and securing such property from damage or loss.

CHAPTER IX.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

45. All timber found adrift, beached, stranded, or sunk; all wood or timber bearing marks which have not been registered under Section forty-one, or on which the marks have been obliterated, altered or defaced by fire or otherwise, and in such areas as the Local Government directs, all unmarked wood and timber, shall

shall be deemed to be the property of Government unless and until any person establishes his right and title thereto, as provided in this chapter.

Such timber may be collected by any Forest-officer or other person entitled to collect the same by virtue of any rule made under Section fifty-one, and may be brought to such depôts as the Forest-officer may from time to time notify as depôts for the reception of drift-timber.

The Local Government may, by notification in the local official Gazette, exempt any class of timber from the provisions of this section, and withdraw such exemption.

46. Public notice shall from time to time be given by the Forest-officer, of timber collected under Section forty-five. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than two months from the date of such notice, a written statement of such claim.

47. When any such statement is presented as aforesaid, the Forest-officer may, after making such enquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Courts, and retain the timber pending the receipt of an order from any such Court for its disposal.

Any person whose claim has been rejected under this section may, within two months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any compensation or costs against the Government, or against any Forest-officer, on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

No such timber shall be subject to process of any Civil, Criminal, or Revenue Court until it has been delivered, or a suit has been brought, as provided in this section.

48. If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period prescribed by the notice issued under Section forty-six, or, on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period limited by Section forty-seven, the ownership of such timber shall vest in the Government, or when such timber has been delivered to another person under Section forty-seven, in such other person, free from all encumbrances.

49. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under Section forty-five, and no Forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

50. No

50. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest-officer or other person entitled to receive it such sum on account thereof as may be due under any rule made in pursuance of Section fifty-one.

Payments to be made by claimant before timber is delivered to him.

Power to make rules and prescribe penalties.

51. The Local Government may from time to time make rules to regulate the following matters (namely):—

- (a) the salving, collection and disposal of all timber mentioned in Section forty-five;
- (b) the use and registration of boats used in salving and collecting timber;
- (c) the amounts to be paid for salving, collecting, moving, storing and disposing of such timber;
- (d) the use and registration of hammers and other instruments to be used for marking such timber.

The Local Government may from time to time prescribe, as penalties for the infringement of any rules made under this section, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

CHAPTER VII

PENALTIES AND PROCEDURE.

52. When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts and cattle used in committing any such offence, may be seized by any Forest-officer or Police-officer.

Seizure of property liable to confiscation.

Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that when the forest-produce with respect to which such offence is believed to have been committed is the property of Government and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

53. Upon the receipt of any such report the Magistrate shall, with all convenient dispatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.

54. All timber or forest-produce which is not the property of Government and in respect of which a forest-offence has been committed, and all tools, boats, carts and cattle used in committing any forest-offence, shall be liable to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

55. When

55. When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken charge of by a Forest-officer, and in any other case may be disposed of in such manner as the Court may direct.

Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.

56. When the offender is not known, or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Forest-officer, or to be made over to the person whom he deems to be entitled to the same:

Procedure when offender not known, or cannot be found.

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he may produce in support of his claim.

57. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under Section fifty-two and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

Procedure as to perishable property seized under Section 52.

58. The officer who made the seizure under Section fifty-two or any of his official superiors, or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed under Section fifty-four, fifty-five or fifty-six, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

Appeal from orders under Sections 54, 55 and 56.

59. When an order for the confiscation of any property has been passed under Section fifty-four or fifty-six, as the case may be, and the period limited by Section fifty-eight for an appeal from such order has elapsed and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all incumbrances.

Property when to vest in Government.

60. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Local Government from directing at any time the immediate release of any property seized under Section fifty-two.

Saving of power to release property seized.

61. Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Punishment for wrongful seizure.

Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary-marks.

62. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code,—

6

(a) knowingly

ACT No. VII of 1878.

- (a) knowingly counterfeits upon any timber or standing tree a mark used by Forest-officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person; or
- (b) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest-officer; or
- (c) alters, moves, destroys or defaces any boundary-mark of any forest or waste-land to which the provisions of this Act are applied,
- shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

63. Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest offence punishable with imprisonment for one month or upwards.

Every officer making an arrest under this section shall without unnecessary delay take or send the person arrested before the Magistrate having jurisdiction in the case.

Nothing in this section shall be deemed to authorize such arrest for any act which is an offence under Chapter IV of this Act, unless such act has been prohibited under Section twenty-nine, Clause (c).

64. Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest offence.

65. The Magistrate of the District, and any Magistrate of the first-class specially empowered in this behalf by the Local Government, may try summarily, under the Code of Criminal Procedure, any forest offence punishable only with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees, or both.

66. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by the rules made under this Act: Provided, that no person shall be punished twice for the same offence.

67. The Local Government may from time to time, by notification in the local official Gazette, empower any Forest-officer by name, or as holding an office, to accept from any person against whom a reasonable suspicion exists that he has committed any forest offence other than an offence under Section sixty-one or Section sixty-two a sum of money by way of compensation for any damage which may have been committed, and to release any property which has been seized as liable to confiscation on payment of the value thereof as estimated by such officer.

On the payment of such sum of money or such value, shall be discharged, the property seized shall be released, and no proceedings shall be taken under this Act against such person or property, but all proceedings herein contained shall be exempt such person from prosecution under any other law for the time being in force.

68. When

ACT No. VII of 1878.

68. When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

CHAPTER XI.

CATTLE-TRESPASS.

69. Cattle-trespassing in a Reserved Forest, or in any portion of a Protected Forest which has been lawfully closed to grazing, shall be deemed to be cattle doing damage to a public plantation within the meaning of the eleventh section of the Cattle-trespass Act, 1871, and may be seized and impounded as such by any Forest-officer or Police-officer.

70. The Local Government may from time to time, by notification in the local official Gazette, direct that, in lieu of the fines fixed by the twelfth section of the Act last aforesaid, there shall be levied for each head of cattle impounded under Section sixty-nine of this Act, such fines as it thinks fit, but not exceeding the following, that is to say:—

For each elephant	...	...	ten rupees.
For each buffalo or camel	...	...	two "
For each horse, mare, gelding, pony, colt, filly, muel, bull, bullock, cow or heifer	...	...	one rupee.
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid	...	...	eight annas.

CHAPTER XII.

OF FOREST-OFFICERS.

Local Government may invest Forest-officers with certain powers.

71. The Local Government may invest any Forest-officer by name, or as holding an office, with the following powers, that is to say:—

- power to enter upon any land and to survey, demarcate, and make a map of the same;
- the powers of a Civil Court to compel the attendance of witnesses and the production of documents;
- power to issue a search-warrant under the Code of Criminal Procedure; and
- power to hold an enquiry into forest offences, and, in the course of such enquiry, to receive and record evidence.

Any evidence recorded under Clause (d) of this section shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

Forest-officers deemed public servants.

72. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

73. No

Indemnity for acts done
in good faith.

Forest-officers not to
trade.

73. No suit shall lie against any public servant for anything done by him in good faith under this Act.

74. Except with the permission in writing of the Local Government, no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in British or Foreign territory.

CHAPTER XIII.

SUBSIDIARY RULES.

Additional powers to
make rules.

75. The Local Government may from time to time make rules—

- (a) to prescribe and limit the powers and duties of any Forest-officer under this Act;
- (b) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act;
- (c) for the preservation, reproduction and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons; and
- (d) generally to carry out the provisions of this Act.

76. Any person breaking any rule under this Act, for the breach of which no special penalty is provided, shall be punished with imprisonment for a term which may extend to one month, or fine which may extend to five hundred rupees, or both.

Penalties for breach of
rules.

77. All rules made by the Local Government under this Act shall be published in the local official Gazette, and shall thereupon, so far as they are consistent with this Act, have the force of law:

Provided that no rule made under Section twenty-seven, thirty-one or forty-one shall be so published without the previous sanction of the Governor-General in Council.

CHAPTER XIV.

MISCELLANEOUS.

Persons bound to assist
Forest-officer and Police-
officers.

78. Every person who exercises any right in a Reserved or Protected Forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest, and every person who is employed by any such person in such forest, and every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community,

shall

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information he may possess respecting the commission of, or intention to commit, any forest offence, and shall assist any Forest-officer or Police-officer demanding his aid

- (a) in extinguishing any fire occurring in such forest;
- (b) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest;
- (c) in preventing the commission in such forest of any forest offence; and
- (d) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

Management of forests
the joint property of Gov-
ernment and other persons.

79. If the Government and any person be jointly interested in any forest or waste-land, or in the whole or any part of the produce thereof, the Local Government may from time to time either

- (a) undertake the management of such forest, waste-land or produce, accounting to such person for his interest in the same; or
- (b) issue such regulations for the management of the forest, waste-land or produce by the person so jointly interested as it deems necessary for the management thereof and the interests of all parties therein.

When the Local Government undertakes, under Clause (a) of this section, the management of any forest, waste-land or produce, it may from time to time, by notification in the local official Gazette, declare that any of the provisions contained in Chapters II and IV of this Act shall apply to such forest, waste-land or produce, and thereupon such provisions shall apply accordingly.

80. If any person be entitled to a share in the produce of any forest which is the property of Government or over which the Government has proprietary rights, or to any part of the forest-produce of which the Government is entitled, upon the condition of duly performing any service connected with such forest, such share shall be liable to confiscation in the event of the fact being established to the satisfaction of the Local Government that such service is no longer so performed: Provided that no such share shall be confiscated until the person entitled thereto, and the evidence (if any) which he may produce in proof of the due performance of such service, have been heard by an officer duly appointed in that behalf by the Local Government.

81. All money payable to the Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

82. When any such money is payable for or in respect of any forest produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest-officer until such amount has been paid.

If such amount is not paid when due, the Forest-officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

The surplus (if any), if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Her Majesty.

Land required under this Act to be deemed to be needed for a public purpose under Land Acquisition Act.

83. Whenever it appears to the Local Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1870, Section four.

SCHEDULE.

(See Section 1.)

ENACTMENTS REPEALED.

Number and Year of Act or Regulation.	Title.	Extent of Repeal.
Act VII of 1865	An Act to give effect to Rules for the management and preservation of Government forests.	So much as has not been repealed.
Act VII of 1869	An Act to give validity to certain Rules relating to forests in British Burma.	The whole.
Act XIII of 1873	An Act to amend the law relating to timber floated down the rivers of British Burma.	So much as has not been repealed.
Regulation IX of 1874.	The Arakan Hill District Laws Regulations, 1874.	So far as it relates to Acts VII of 1865 and VII of 1869.

*G. 625 March 1879
No 724*



Bill to be introduced into the Council of the Governor of Fort St. George for making Laws and Regulations, and published under Rule 25.

The following Bill, with Statement of Objects and Reasons, is published for general information under Rule 25 of the Rules for the conduct of business at meetings of the Council of the Governor of Fort St. George for making Laws and Regulations:—

No. 4 of 1879.

A Bill to make further provision for the Protection and Conservation of Forests and Forest Produce in the Madras Presidency.

WHEREAS it is expedient to make further provision for the protection and conservation of forests and forest produce in the Madras Presidency, and for that purpose to amend and define the law relating to forests, the transit of forest produce and the dues leviable on timber; It is hereby enacted as follows:—

CHAPTER I.

Short Title.

This Act may be called "The Madras Forest Act, 1879."

Interpretation Clause.

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

"Forest Officer" means any person whom the Government or any officer empowered by the Government in this behalf may from time to time appoint by name, or as holding an office, to carry

out all or any of the purposes of this Act, or to do any thing required by this Act or any rule made under this Act to be done by a Forest Officer :

"Forest" or "Forest Land" means any land covered with trees, bamboos or jungle, or any land which may be hereafter constituted a forest under the provisions of this Act :

"Forest."

"Tree."

"Tree" includes bamboos, stumps and brushwood :

"Timber" includes trees and bamboos when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purposes or not :

"Timber."

"Forest Produce."

"Forest Produce" includes the following when found in, or brought from, a forest ; that is to say,—

trees, timber, grass, peat, canes, creepers, reeds, leaves, moss, flowers, fruits, roots, juice, catechu, bark, honey, wax, lac, caoutchouc, gum, and resin :

"Forest Offence."

"Forest Offence" means an offence punishable under this Act, or under any rule made under this Act :

"Cattle" includes elephants, camels, buffaloes, bulls, cows, calves, bullocks, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids:

"River." "River" includes all natural streams, water-courses and creeks:

"Channel" includes tanks, canals, and all other artificial channels, and also natural channels, streams or water-courses when artificially embanked or deepened.

What is to be considered Forest.

3. All lands now covered with trees, bamboos, or brush-wood, are hereby declared to be forest for the purposes of this Act.

Forests how classed.

4. Forests are either State or private.

Government Forests shall be classed as—

Reserved Forest;
Village Forest;
Closed Forest; and
Protected Forest.

And it shall be competent to Government on application to extend this classification to any private forest.

5. All forests within the Madras Presidency subject to all rights and easements lawfully enjoyed therein are hereby declared to be State forests, except such as are within the limits of Zemindaries or other private estates or which have been at any time granted out by Government.

State forests subject to all rights and easements.

6. No person shall cut, clear or burn in any forest any trees being within a distance of fifty yards from the margin of the bed of any river or within fifty yards of any spring or other source of water.

Restrictions as to cutting, burning, &c.

7. No right or easement shall henceforward be acquired in any forest except by succession or by grant from Government; nor shall any act done or use made of any alleged right or easement subsequent to 1st January 1878 be adduced in evidence in any Court in support of any claim to or over any forest, or any forest produce.

Easement by succession or Government grant—acts otherwise not evidence in Court.

8. The Government may, from time to time, constitute any waste land which is Government waste, or land which Government have acquired under the Land Acquisition Act, 1870, forest in the manner hereinafter provided or, on the application of any Zemindar or private Proprietor, any waste land within the estate of such Zemindar or Proprietor.

Power to constitute waste, &c., as forest.

CHAPTER II.

RESERVED FORESTS.

9. When the Government shall be of opinion that it is essential in the public interest for the maintenance of water-supply in springs, rivers, or tanks, or for other climatic reasons, that any State forest shall be maintained as perpetual forest, it shall be competent to the Government to declare by Notification in the *Fort St. George Gazette*, and in the Official Gazette of the district in which such forest shall be situate, that such forest is from that date a reserved forest.

Power to declare reserved forests.

10. Such State forests as shall be declared to be reserved forests shall be absolutely reserved for perpetual forest. They shall not be capable of being cleared or granted out for any purpose without the previous sanction of the Government of India.

Such Forests cannot be cleared without special action.

11. With such sanction it shall be competent to the local Government to revoke or vary any order constituting any forest a reserved forest as to the whole or any part thereof. Notwithstanding such restriction, it shall be competent for the local Government to permit the quarrying of building or limestone, or raising of minerals, in any reserved forest, subject to such rules as the local Government shall from time to time prescribe.

Power to vary order.

Quarrying of lime stone, &c.

Forest servants alone to cut or remove timber in reserved forests.

12. It shall not be lawful for any persons to cut or remove any timber within a reserved forest other than persons employed by or under the control of the Forest Officers.

13. It shall not be lawful for any persons other than those having recognised customary or other rights in any reserved forest to gather any forest produce other than trees or timbers within any reserved forest.

Forest produce to be gathered only by persons having right.

14. It shall not be lawful for any person other than those having customary or other recognised rights therein to pasture any cattle in a reserved forest.

Such persons only can pasture cattle.

CHAPTER III.

VILLAGE FORESTS.

15. In all Government Villages a sufficient area of forest as nearly adjacent as may be to each village shall be appropriated to and maintained for the supply of timber to the inhabitants of such village for fuel, for agricultural implements, and for building materials for buildings within the village, and for gathering of leaves and grass by the villagers. The area to be so appropriated shall be determined with regard as well to the area and population of the village as to the nature and reproductive character of the forest, and shall be so much as is deemed sufficient to supply continuously the wants of the village with an additional quantity of one-tenth.

Such areas shall be termed Village Forests; and the maintenance of the village forests shall be primarily borne by the village jungle conservancy funds under the direction of the Collector of the district.

16. Within such area all customary rights of collecting fuel or timber for building materials or agricultural implements or other forest produce, whether free of payment or otherwise, shall continue to be exercised as heretofore by the villagers for use within the village, subject only to such rules and regulations as may from time to time be made, for ensuring full exercise of such rights to all concerned and the due conservation of the forest.

Customary rights to be exercised within such area.

17. The custody of such village forests rests primarily with the officers of the village; and it shall be competent to the Government to award such annual sum not exceeding in any case Rupees of each village for each year in which the village forest shall have been reported to be in a satisfactory condition.

Village Officers to have custody of Village Forests.

18. If any such village forest is repeatedly injured by fire, theft, or any wilful damage or negligence, it shall be lawful for the Government to direct the custody of such forest to be assumed by the Forest Department for a specified time; and the expense of such management not exceeding may be raised by a fee or additional fee on all or any of the rights and privileges exercised in, or timber or forest produce removed from, such forest.

In case of repeated injury by fire, &c., custody of village forest to be assumed by Forest Department.

19. In case any such village forest or other State forest shall be injured by repeated acts of theft or other wilful damage, it shall be competent to the Governor in Council to direct the appointment of special guards for such forest, and the payment of the entire expenses thereof plus an additional 5 per cent by the village or villages having rights in such village forest or being the next adjoining villages to the damaged portion of any State forest.

Special guards may be appointed.

Such payment shall, so long as the said special guards are maintained, be a charge upon the assessment of the said village or villages; and the assessment of such villages and every kist thereof shall be deemed to be increased accordingly from the date of the order of Government.

20. If any such village forest or State forest shall be so far destroyed by fire or any other wilful act as in the opinion of the Governor in Council to require replanting, the cost of replanting, or so much thereof as the Governor in Council shall direct by order, shall be paid by the villages having rights therein, or being the nearest adjacent to the damaged portion, by such instalments as may be directed; and such instalments shall be an addition to the assessment of each village and to every kist thereof until the arrears be fully paid: Provided always that any labor contributed by the inhabitants of any village towards the replanting or work necessary thereto may be accepted in satisfaction of a proportionate part of any such payments.

CHAPTER IV.

CLOSED FOREST.

21. The Government may from time to time, by Notification in the local official Gazette, declare any portion of any State forest to be a closed forest for such term not exceeding ten years as the Government thinks fit: Provided that,

if the portion to be declared closed shall include any part of any village forest, it shall not exceed two square miles nor one-sixth of the whole of such village forest; if it be a reserved or protected forest, it shall not exceed ten square miles nor one-fourth of the whole forest:

and provided that in either case, the remaining portion of the forest be sufficient and reasonably convenient for the due exercise therein of all the rights of collecting fuel or timber for use in the village and of rights of pasture or grazing which existed over the portion so closed.

22. It shall not be lawful for any person to quarry stone, burn lime or charcoal, or cut or burn any tree, or pasture any cattle in any closed forest; but permission may be given for collection of seeds or fruit by such authority and subject to such rules as the Government may from time to time prescribe.

23. The Government may by a similar order, to be issued not more than twelve nor less than six months before expiry of the original order, and after similar procedure to that for closing a forest, make, if it be so deemed fit, a new order declaring the same or any portion thereof to be closed for a further period not exceeding five years.

24. If any Zemindar or other private proprietor shall have set out sufficient village forest as prescribed in Chapter III for the villages within his estate, and shall desire to make any portions of forest closed forest, it shall be lawful for the Government to notify that such portion or portions of such private forests are closed forests in the manner prescribed in Section 21, and all the provisions of this Act applicable to closed forests shall then apply as if the same were State forests.

CHAPTER V.

PROTECTED FORESTS.

25. All State forests not declared to be Reserved, Village, or Closed, shall be Protected forests.

26. It shall not be lawful for any person to cut or burn any tree, or to clear for any purpose any portion of ground, in protected Forests except with written license, puttah, or grant under Waste Land Rules first obtained.

27. All customary or other recognised rights and privileges of pasturage, grazing, collection of forest produce other than timber in protected forests shall continue and be as fully enjoyed as hitherto, any thing in this Act notwithstanding.

CHAPTER VI.

CONTROL OVER FORESTS AND LANDS NOT THE PROPERTY OF GOVERNMENT.

28. If the Government shall be satisfied that it is essential for the public good that any area of forest covering the head-waters of any river and not being the property of the Government shall be reserved as perpetual forest, it shall be lawful for the Government by Notification in the *Fort St. George Gazette* to declare the same a reserved forest and to prohibit the cutting of any tree or the burning or clearing of any vegetation within such area; and the Government shall thereupon pay to the owner of such forest such annual sum as shall be agreed or awarded as compensation as hereinafter provided in respect of the prohibition to cut trees on such area.

The restrictions imposed by Sections 12, 13, and 14 shall thenceforward apply to such forest.

Provided that the owner shall not be debarred from the full and unfettered use and enjoyment of any other rights or privileges belonging to him in such area not inconsistent with the preservation of the timber. If the trees within such area shall be destroyed by fire or by any wilful act of any person, and the proprietor thereof shall not forthwith replant the same, the payment of compensation shall forthwith be suspended, and the Government shall be at liberty to replant the same, and the reasonable expense of so doing and of protecting the young growth shall be retained from the compensation-rent for the said area.

29. If such area be at the time when the Notification is issued the property of a minor ward of Court, the annual compensation to be awarded shall be subject to revision on application of such ward within three years after the said ward shall have attained his majority and been put in possession of the estate.

30. If any such area shall be the subject of any lease, it shall be lawful for the Government to give notice to the lessee or assignee or holder of such lease to transfer such lease to Government, and all rights and benefits of the lessee to accrue from date of such notice in such lease shall thenceforth cease and determine; and the Government shall bear all liabilities and be entitled to all benefits accruing under the covenants of such lease from that date and shall be accepted as lessees by the lessor, anything in the said lease to the contrary notwithstanding.

31. In case Government shall so assume any lease, it shall pay to the said lessee, assignee or holder such compensation as may be agreed or awarded in manner hereafter prescribed.

CHAPTER VII.

CONTROL OF TIMBER AND OTHER FOREST PRODUCE IN TRANSIT.

32. The Government may from time to time make rules to regulate the transit of all timber and other forest produce in the several districts.

Such rules may (among other matters)

- (a) prohibit the moving of such timber or other produce within any State forest or within three miles thereof without a pass from an officer duly authorised to issue the same, or otherwise than in accordance with the conditions of such pass;
- (b) provide for the issue, production, and return of such passes and for the payment of fees therefor;
- (c) provide for the stoppage, reporting, examination, and marking of timber or other forest produce in transit within the above limits;
- (d) regulate the use of property-marks for timber, and the registration of such marks, and provide for the levy of fees for such registration;
- (e) regulate the place or places within any State forest or within one mile of any such forest, at which only forest produce may be brought or exhibited for sale.

33. The Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest produce while detained in pursuance of any such rules or otherwise for the purposes of this Act; and no Forest officer shall be responsible for any such loss or damage unless he causes such loss or damage negligently, maliciously, or fraudulently.

CHAPTER VIII.

34. Whenever it is proposed to constitute any waste land, or land acquired by Government under the Land Acquisition Act, 1870, a forest, the Government shall publish a Notification in the *Fort St. George Gazette*—

- (a) declaring that it is proposed to constitute such land a forest;
- (b) specifying the limits of such intended forest, describing them by reference to roads, rivers, ridges, or other well-known or readily intelligible boundaries;
- (c) specifying whether the same is to be a reserved or village forest, and whether it or any part of it is to be a closed forest;
- (d) fixing a date not less than four months after first publication of notice in the Official Gazette of the district, before which claims to rights over such land or objections to its being made forest must be lodged;
- (e) specifying the persons to whom notice of claims or objections shall be made, and what persons shall include the Tahsildar of the taluk in which, and the Kurnums of each village in which, any part of such land is situate.

35. Immediately on the expiry of the said time, the Collector of the district shall cause to be published in the District Gazette a list of all claims and objections, and shall in the same notification appoint a day for the investigation of such claims.

Such investigation shall take place at such convenient place in the taluk within which the intended forest is situate as may be notified, or, if more convenient to the claimants or objectors, in one of the adjoining taluks.

The Forest Settlement Officer shall at the time and place so appointed proceed with the investigation of the claims, or objections, and proceed with the same daily.

If the Forest Settlement Officer admits in whole or in part any claim, he shall record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to graze on such land, and such other particulars as the case may require.

After making such record, the Forest Settlement Officer shall pass such orders as will ensure the continued exercise of the rights so admitted. For this purpose the Forest Settlement Officer may further, with the consent of the claimant,

- (a) set out some other forest tract or Government waste land of sufficient extent and in a locality reasonably convenient for the purposes of such claimants, and record an order conferring upon them a right of pasture or to forest produce thereon (as the case may be) to the extent so admitted; or
- (b) so alter the limits of the proposed forest as to exclude land of sufficient extent and in a locality reasonably convenient for the purposes of the claimants; or
- (c) record an order, continuing to such claimants a right of pasture or to forest produce (as the case may be), to the extent at such seasons, and within such portions of the proposed forest as may have been admitted in the order made admitting the claim.
- (d) in case the Forest Settlement Officer finds it impossible, having due regard to the maintenance of such proposed forest, to make such settlement as shall ensure the continued exercise of the said rights to the extent so admitted, he may, with the assent of the claimant, record an order (subject to such rules as the Government may from time to time prescribe in this behalf) commuting such rights either by the payment to such persons of a sum of money in lieu thereof, or by the grant of land.

Any person who has made a claim under this Act and whose claim shall not have been admitted or commuted under this clause may, within one month from the date of the order passed on such claim by the Forest Settlement Officer, appeal to the District Court from such order.

Appeal from order passed under Section 10, 11, 14, or 15.

But the commutation made by the Forest Settlement Officer under this Section, a, b, c, or d, and confirmed by Government, shall be final and absolute.

36. As soon as the Forest Settlement Officer shall have reported all the claims and his decision thereon, and the time fixed for appeal therefrom shall have expired and all appeals duly entered have been decided, the Government may declare such land or any parts thereof subject to any rights therein recorded as existing by the Forest Settlement Officer and confirmed by him, or by Court of Appeal, to be henceforward State or private forest and reserved or village forest as the case may be; defining such forest by boundary marks, erected or otherwise.

37. When it is proposed to close any portion of forest, notification shall be published in the *Fort St. George Gazette* specifying the area to be closed, and also the area over which any grazing rights may be exercised during the closure.

Such notification shall fix a date, not less than two months after date, before which any person having rights in such area, or over the area on which the rights existing in the portion to be closed are proposed to be extended, shall be at liberty to give notice of objection to the Tahsildar of the taluk or Kurnum of the village. Any village may object by notice signed by the majority of the village officials.

When the period so fixed has expired, the Collector shall fix a date of which at least fourteen days' notice shall be given to each objector, when he will by himself, or a qualified Assistant Collector, or Deputy Collector, investigate and decide all such objections lodged.

38. All compensation to be given or awarded under Sections 28 and 31 shall, failing agreement, be determined by the Collector subject to appeal to the Sessions Court.

Who to determine compensation.

39. All questions connected with the closing of any forest under Clauses 21, 23, or 24 shall be decided by the Collector of the district, whose order shall be final subject only to confirmation by the Government.

Who to decide questions of closing.

40. All notifications and orders under this Act shall be published in the Official Gazettes of all or every district in which any forest to which they relate is situate and shall be published both in English and in the vernacular of the district.
- Publication of all Notifications in Gazette.
41. All notices constituting any portion of forest a reserved village or closed forest shall be posted in the vernacular of the locality in a conspicuous place in each village within which any part of such forest is situate or which shall adjoin such forest.
- Posting of Notices.
42. Whenever the boundary of any reserved forest shall meet any river or public road, a conspicuous permanent mark shall be erected or made, having on it the words "Reserved Forest" in English and in the vernacular of the district, and similar marks shall be erected at suitable points demarcating the line between any village and other forest.
- Conspicuous marks of boundaries of reserved forest.
- To be erected and maintained at Government expense.
- All such marks shall be erected and maintained by the Government.
- In other cases to be provided as survey marks.
- All other boundary marks shall be provided and maintained as other survey marks.

CHAPTER IX.

PENALTIES AND PROCEDURE.

43. Any person who commits any of the following offences; that is to say, who unlawfully
- (a) fells, girdles, lops, taps, or burns or otherwise injures any tree in any State forest or in any area reserved under Chapter V, or strips off the bark or leaves from, or otherwise damages, any such tree;
 - (b) quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes any forest produce in or from a State forest when such an act is prohibited;
 - (c) breaks up or clears for cultivation or any other purpose any land in any State forest, or in any forest area reserved under Chapter V, contrary to the rules laid down on the subject, or when such an act is prohibited;
 - (d) sets fire to any forest or kindles a fire in any forest without taking all reasonable precautions to prevent its spreading;
 - (e) permits cattle belonging to him or in his charge to trespass in any closed forest, or to cause substantial or preventable damage in any forest;
- shall be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to five hundred rupees, or to both.
- Nothing in this section shall be deemed to prohibit—
- (a) any act done by permission in writing of the Forest Officer or under any rule made by Government; or
 - (b) the exercise of any right pertaining to the individual or created by grant or contract in writing made by, or on behalf of, Government or recorded under Section thirty-eight.
44. Any person who kindles or permits the kindling of any fire for the purpose of burning trees or vegetation on land held or occupied by him adjoining to any forest, which fire shall spread to such forest shall be liable to pay to Government a sum not exceeding Rupees for every acre, or part of an acre of State forest burnt.
- Penalty for kindling fire, &c.
45. When there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce, together with all tools, boats, and carts used in committing any such offence, may be seized by any Forest Officer or Police Officer.
- Seizure of property liable to confiscation.
- Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:
- Mark to be placed indicating seizure, and report of seizure to Magistrate.

- Provided that when the forest produce with respect to which such offence is believed to have been committed is the property of Government and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.
- Proviso.
46. Upon the receipt of any such report the Magistrate shall, with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.
- Procedure thereupon.
47. All timber or forest produce which is not the property of Government and in respect of which a forest offence has been committed, and all tools, boats, carts and cattle used in committing any forest offence, shall be liable to confiscation.
- Forest produce, tools, &c., when liable to confiscation.
- Such confiscation may be in addition to any other punishment prescribed for such offence.
48. When the trial of any forest offence is concluded, any forest produce in respect of which such offence has been committed shall, if it is the property of Government, be taken charge of by a Forest Officer, and if it is confiscated property, or in any other case, shall be disposed of in such manner as the Court may direct.
- Disposal, on conclusion of trial for forest offence, of produce in respect of which it was committed.
49. When the offender is not known, or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and sold, or to be made over to the person whom he deems to be entitled to the same:
- Procedure when offender not known, or cannot be found.
- Provided that no such order shall take effect until the expiration of one month from the date of seizing such property, or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he may produce in support of his claim unless it be an order restoring property to its owner.
- Proviso.
50. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under Section forty-five and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.
- Procedure as to perishable property seized under Section 45.
51. The officer who made the seizure under Section forty-five or any of his official superiors, or any person claiming to be interested in the property so seized, may, within fourteen days from the date of any order passed under Section forty-eight or forty-nine, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable; and the order passed on such appeal shall be final.
- Appeal from orders under Sections 48 or 49.
52. When an order for the confiscation of any property has been passed under Section forty-eight or forty-nine as the case may be, and the period limited by Section fifty-one for an appeal from such order has elapsed and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all incumbrances.
- Property when to vest in Government.
53. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by Government from directing at any time the immediate release of any property seized under Section 45.
- Saving of power to release property seized.
54. Any Forest Officer or Police Officer who vexatiously or unnecessarily seizes any property, on pretence of seizing property liable to confiscation under this Act, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.
- Punishment for wrongful seizure.
55. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code,
- Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks.

- (a) knowingly counterfeits upon any timber or standing tree a mark used by Forest Officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person; or
- (b) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest Officer,
- shall be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to five hundred rupees, or to both.

Power to prevent com-
mission of offence.

56. Every Forest Officer and Police Officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest offence.

57. The Magistrate of the District, and any Magistrate of the first class specially empowered in this behalf by Government, may try summarily, under the Code of Criminal Procedure, any forest offence punishable only with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees, or both.

Power to try offences summarily.

58. Nothing in this Act shall be deemed to prevent any person from being punished under the Code of Criminal Procedure, any forest offence punishable only with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees, or both.

58. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by the rules made under this Act: Provided that no person shall be punished twice for the same offence.

Operation of other laws
not barred.

it, or from being liable under such other law to any higher punishment or penalty than that provided by the rules made under this Act: Provided that no person shall be punished twice for the same offence.

59. Cattle trespassing in a State Forest, or in any portion of a Communal Forest which has been lawfully closed to grazing, shall be deemed to be cattle doing damage to a public plantation within the meaning of the eleventh section of the Cattle Trespass Act, 1871, and may be seized and impounded as such by any Forest Officer or Police Officer.

CHAPTER X.

FOREST OFFICERS.

60. The Government may appoint any officer not below the rank of a Covenanted Officer of three years' standing, or a Deputy Collector, to act as Forest Settlement Officer in any district in the vernacular of which he is qualified, and may empower him, either alone or conjointly with any officer of the Forest Department, or of the Survey Department, to set out and demarcate any village or other land, as well as perform any other duties imposed on a Forest Settlement Officer by this Act.

...my Forest Officer by his powers, that is

Government of Guyana
Ministry of Education
Georgetown

01. The Government of Guyana, acting through the Ministry of Education, hereby declares that the boundaries of the following primary schools shall be as follows:

(4) prepare to enter upon any of the following duties: (a) to make a map of the area, (b) to make a map of the area, and (c) to make a map of the area.

...the members of witnesses

10-10-68

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 08-19-2006 BY 60322 UCBAW

100-443887-100

...the ... of ...

[illegible]

Journal of Management Education 30(6)p. 789-804
© The Author(s) 2006. Reprints and permissions:
<http://www.sagepub.com/journalsPermissions.nav>

64. No Forest Officer shall, as principal, trustee, or agent, trade in timber or other forest produce, or be or become interested directly or indirectly in any lease of, or the working of, any forest, or collecting any forest produce, or in any contract for working any forest, whether in British or Foreign territory.

Additional powers to
make rules.

65. The Government may from time to time make rules—

- (a) to prescribe and limit the powers and duties of any Forest Officer under this Act ;
 - (b) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act ;
 - (c) for the preservation, reproduction and disposal of trees and timber belonging to Government ;
 - (d) the payments, if any, to be made in respect of such trees, timber and produce, and the places where such payments shall be made ;
 - (e) the examination of forest produce passing within or out of such forests ;
 - (f) the clearing and breaking up of land for cultivation or other purposes in such forests ;
 - (g) the protection from fire of timber lying, and of trees, in such forests ;
 - (h) the cutting of grass and pasturing of cattle in such forests ;
 - (i) the regulation of village forests ; and
 - (j) generally to carry out the provisions of this Act.
66. Any person break :

66. Any person breaking any rule under this Act, for the breach of which no special penalty is provided, shall be liable to be punished with imprisonment for a term which may extend to one month, or fine which may extend to five hundred rupees, or both.

67. All rules made by the Government under this Act shall be published in the *Fort St. George Gazette*, and shall thereupon, so far as they are consistent with this Act, have the force of law.

Persons bound to assist Forest Officers and Police Officers.

68. Every person who exercises any right in a State Forest, or who is permitted to take any forest produce from, or to cut timber or to pasture cattle in, such forest, every person who is employed by any such person in such forest, and every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community, shall be bound to furnish without unnecessary delay to any Forest Officer or Police Officer any information he may possess respecting the commission of, or intention to commit, any forest offence, and shall assist any Forest Officer or Police Officer demanding his aid

(a) in extinguishing any fire

- (a) in extinguishing any fire occurring in such forest ;
 - (b) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest ;
 - (c) in preventing the commission in such forest of any forest offence ; and
 - (d) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.
9. All money payable to the Government by way of compensation for any damage done to any forest by any person, or by any animal, or by any fire, shall be paid to the Government by the Forest Officer or Police Officer in charge of the forest in which the damage was done.

69. All money payable to the Government under this Act, or under any rule made under this Act, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

70. When any such money is payable for or in respect of any forest produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of and detained by a Forest Officer until such amount has been paid or sold after a reasonable time and the proceeds credited towards the amount due.

Proceeds credited towards the amount due.

STATEMENT OF OBJECTS AND REASONS.

1. The Object of the Bill is to ensure the due conservation of the Forests of the Presidency and to secure to villagers due and convenient supplies of timber, bamboos, brush-wood, grass, and other forest-products for their necessary use.
2. The Bill proposes to effect these objects by declaring all land now covered with timber or jungle to be forest, either State or private. It reserves all private rights lawfully existing, subject only to the restriction that when it is thought essential in the public interest, for the maintenance of water-supply or other climatic reasons, that any area shall be preserved as perpetual forest: the Government may require the preservation of any such area which may be private property for perpetual forest, subject to payment by Government of an annual compensation in respect of the prohibition to cut or burn the trees therein, but leaving to the proprietor full enjoyment of all other rights belonging to him therein.
3. If the proprietor shall have leased out any such area, it is also proposed to empower the Government to assume the said lease paying compensation to the lessee, and becoming tenants under the lease for any unexpired term.
4. It is also thought necessary to impose a general prohibition against clearing any forest within 50 yards of the edge of any river, or of any spring or source of water.
5. This provision, it is proposed, shall apply equally to all forests, whether private or State, for the general good.
6. To secure to villagers sufficient and convenient supplies of forest produce, it is proposed to set aside for every village a sufficient area of the nearest forest, such being maintained by the Revenue Officers and protected by the villagers, whose source of supply of fuel, timber, &c. it will be; and within this area it is proposed that all the present customary rights of villagers of collecting fuel, &c., whether free of payment or otherwise, shall continue.
7. For the necessary purpose of giving rest to a forest when the growth has become weakened or young trees have been planted, it is proposed to take power to absolutely close a limited proportion of any forest from time to time for a period not exceeding ten years.
8. To protect the rights of proprietors, it is proposed that questions of compensation for reserving forest areas not belonging to Government, and also relating to rights over waste land which Government may propose to convert into forest, shall be subject to appeal to the District Court.
9. It is proposed to give Government power to make rules for regulation of village forests and other necessary purposes, and also for defining the places in forests whereat only forest produce shall be brought for sale, the reason for this latter power being the great danger of destructive fires in forests being caused by indiscriminate camping of strangers in all parts of a forest.
10. It is proposed to impose distinct penalties for specific acts of injury to forests or forest produce, and also to take power to enforce the use of passes for moving timber within or immediately adjacent to any State forest. And it is proposed that power shall be given to enable Zemindars or other proprietors to make portions of their forests closed forests, and to give to such all the protection of this Bill, provided that they shall first have satisfied the Government that they have set out sufficient village forests for the villages within the Estate.

MADRAS,

17th March 1879.

(By order of His Grace the Governor in Council,)

W. M. SCHARLIEB,
Assistant Secretary to Government,
Legislative Department.

Revenue Department.
No 724

From

J. H. Garstin Esq., C.S.I.
Asst. Secretary to Government.

The Secretary to the Government of India,
Department of Revenue, Agriculture
and Commerce.

Sir,

With reference to the last paragraph
of your letter dated 5th January 1878 No 125,
I am directed by His Grace the Governor
in Council to forward for the informa-
tion of the Government of India the ac-
companying copy of the draft Forest Bill
proposed to be introduced into the Madras
Legislative Council.

I have the honor to be,

Sir

Your Most Obedient Servant

Fort St. George,
25th March 1879.

Asst. Secretary to Government

Ed. Hill

6/10/99
2/10/99
26.3.99

Forw'd 13

Revenue Dept
Fort St George

24

The Secretary to the Govt of India
Dept of Rev. Agr. & Com.

Sir,

With reference to the last
paragraph of your letter dated
5th January 1878 no. 128, I
am directed by His Grace the
Governor in Council to forward
for the information of the Govt
of India the accompanying copy
of the ^{draft} proposed
Bill introduced into the Madras
Legislative Council.

J. A. P.
25-3-79.

25/2

18-6. 90✓

1-12. 94✓

S. J. (100)

1000