

Revenue (1897) Department.

MISCELLANEOUS SERIES.

G.O., No. 1509

DATED 18th March 97

[Despatch Abstract.]

Referring to the Honorable the Advocate General
for favor of opinion of the legality of the course
proposed by the Board with regard to the cancellation
of the notification under Game Laws in respect of
certain tracts in the Chilgiris with an object to prevent
damages by Samblers

BACK PAPERS.

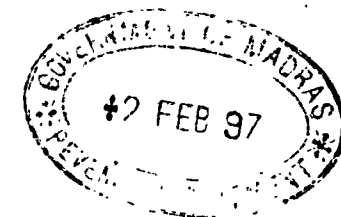
G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Revenue (1897) Department.

CURRENT No. 990.



From
The Board of Revenue
Land Revenue,
Madras

Forest No. 89 M.S.

Dated 27 January 1897.

Received 2nd Feb 97.

Registered 3rd Feb.

Enclosures 9

Spare copies

SUBJECT.

Subm. to Govt. for approval & publication
in the Fort St. George Gazette certain
draft notifications for exempting
from the operation of the Nilgiri Game
and Fish Preservation Act II of 1879
the areas affected by the over-preservation
of sanctuaries and for amending accordingly
the game rules sanctioned for the B.
under sections 21 & 26(f) of the Madras
Forest Act.

Order

BACK PAPERS.

G.O.	No.	Department.	Date.

C. No. 990 787

From the Board of Rev. Land Rev.

Shelton: Mr. Grace C. J. S.

Dated 27th January 1897.

The Hon: Mr. Bliss C. J. S.

FOR ORDERS.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

The permission to shoot Sambur in these tracts during the close season was given, but I don't see how it can be given in the way recommended, or extended to other tracts at the discretion of the Comr.

Act 12 of 1896 having been extended to these tracts & having come into force in them, the order extending it when cannot be cancelled. The Act, however, gives power to Govt to give a close season by notification from time to time & I had thought we might at this time issue a notification in which these tracts are exempted. Whenever the Comr. wants a new tract exempted as a new notification will apparently have to be issued. The Ad. Comr. has been asked about this. His doubt we can vary the rules.

12/3/97
13/3/97

C. 8/3/97
R. 16/3/97

These papers relate to a complaint preferred by two of the planters on the Nilgiris regarding the over-preservation of Sambur on the hills and the consequent loss sustained by them by the incursions of the animal into their estates.

2. The facts ^{of the case} and the remedies suggested, are concisely stated in the Board's Resolution to which attention is solicited. The estates concerned are situated very near the Poykara Gout Cinchona Plantations. The Collector has now personally investigated the complaint and is satisfied of its truth. The only remedy that he ^{can} think of in the circumstances is to allow the planters to shoot ^{Sambur} the animal ^{partly} in and around their estates.

estates and to enable this to be done legally, he suggests (1) that a notification be issued under Secs 1 and 3 of the Hilórin Game and Fish Preservation Act II of 1879 exempting the two estates with a margin of 300 yards and 600 yards respectively around them from the operation of the said Act and (2) that the rules issued under the Madras Forest Act (G.O.) of 10th Jan 1894 be amended by inserting at the beginning of rules 1 and 2 of the words "unless with the sanction of Govt." The Hilórin Game Association has approved of "the principle on which the cases at issue are being settled and will leave the further settlement of the matter in the hands of the District Officers."

3 The two planters above referred to are not the sole sufferers and it is anticipated that similar complaints, tho' not very many, will be received in the future. ^{therefore,} the Board, ~~accordingly~~ thinks it undesirable to leave each case to be dealt with as it arises and would ^{and} ~~therefore~~ allow the Collector general powers

FOR ORDERS.

powers in the matter by altering the rules in such a way as to allow him discretion to give or withhold free licenses to owners of estates or their agents to shoot Sambar when necessary. The Board also considers that instead of exempting the two estates, referred to in paras 1 and 2 above, alone from the operation of Act II of 1879 it is desirable that a general notification should be issued exempting from the operation of the Act the tracts in ^{respect of} which the Collector has given a free licence. Two draft notifications prepared by the Board in accordance with the above views are appended to its Prop. now under consideration.

4. The first point for orders is whether as proposed by the Collector and the Board it is desirable that the planters should be allowed to shoot Sambar ² freely. Attention in this connexion is solicited to the fact that on a previous occasion when a similar privilege was being exercised by the Supt of the Pykara and Hokers

flap A

Cinchona estates and the Shikari
 both the ~~hilders~~ Game Association
 the Conservator
 and the District Officers strongly
 protested against it, and asserted
 that "Mr Dawson was somewhat
 imposed upon by his subordinates
 (for their own purposes) as to the
 injuries done by the Sambar" and
 expressed their opinion that "the
 game might well be frightened away
 instead of being destroyed". The
 question was carefully considered
 in connexion
 with Dr King's report on the Gout

Cinchona estates and the Governor
 after animadverting on the conduct
 of Mr Mac Far, the Supt, declared
 his opinion that ^{the} shooting of Sambar
 in the Gout estates should be stopped,
 adding that "we should do what
 the neighbouring estates do, viz Sur-
 round them with wire netting of
 a broad mesh called sheep netting.
 Some five or six feet high up. This
 is found to be perfectly efficacious
 in the estates close by". The Board
 it will be seen sided with the
 Game Association and the District
 Officers at the time and the sudden
 change of view seems to be not
 quite

Flagged B

It is not very sudden. The committee
 that the managers of Sambar need
 suppression has been growing for
 long time

Submitted that no
 further report is required as the
 Game Association accepts the
 Collector's proposal.

4/2/97

Section 15 empowers Govt to amend "orders issued"
 under an Act. I find the wording of section 6 of
 Act appears that "order" may be "issued" with respect
 to the application of an Act. This being so, Govt.
 by that section 15 empowers Govt to amend the
 notification applying that as Act II of 1891 to the
 Cinchona estates in the Gout

I think this view is wrong.
 Section of the General Clauses Act gives
 Govt power to cancel a notification extending
 an Act to a particular place, & as
 the whole includes the part, Govt can
 presumably cancel a notification in so far
 as it relates to a portion of the place
 to which the Act was originally extended.
 If any doubt is felt on the point, the Advocate
 General may be asked. 11/2/97

quite accountable. Orders are
 therefore solicited, as to whether
 a further report on the point
 should be called for.
 In summing up
 to the draft notification, it
 is submitted that if the con-
 cession asked for by the two
 planters is to be granted, it
 seems desirable, as suggested by
 the Board to invest the Collector
 with general powers to give or
 withhold it as he deems it fit.
 The amendments proposed to the
 rules issued under Secs 21 and 26 of
 the Forest Act seem cheap
 to be unobjectionable subject to a
 slight verbal modification (as
 indicated in pencil). As regards
 the other notification, however,
 it is submitted that neither Act
 I of 1879 nor the General Clauses
 Act I of 1891 (vide Sec. 22) con-
 tains any provision under
 which it can be issued, i.e. the
 Govt has apparently no power
 under the existing law to exempt
 from the operation of Act II of 1879
 any tract to which it has not

been introduced. The object of the notification according to the Board is to prevent the holders of free licenses from being prosecuted under the Act for shooting during the close season prescribed under Sec 3 thereof. This object can it is submitted be gained by issuing a notⁿ. cancelling the one prescribing the close season (vide last page of G.O. 7 dt 10th Jan^y 1894) so far as the estates in question with a slight margin around them & the extent are concerned & the estates themselves are already exempt from the operation of the notⁿ issued under Sec 3). It seems at the same time doubtful whether under Sec 3 of the Act a new notⁿ can now be issued exempting from the operation of the previous notⁿ prescribing the close season the tracts in respect of which the collector may hereafter grant free licenses.

The Board General may be asked as to the meaning of Sec 22.

1/7.3.97.

* flagged C.

I think not. Section 15 of the General clauses Act clearly covers the case. ED

1/3.3.97. 1/7.3.97.

If not? Sampling from the question of a notⁿ can not be issued by notⁿ are amended butⁿ can be so.

1/7.2.97

1/7.2.97.

12/12/97
25.11.97

Laws generally, but against a local excess of Sambhur round certain exceptional estates. Indeed, the Chief agitators, Mullaly of the Drug estates, & Grey near the headwaters of the Moyal, are not in the least opposed to the preservation of other game- not have I heard of anyone else who is.

The second point to which I wish to draw attention, is that a general feeling exists that the grievances of certain estates

are real, & that if nothing is done to help them, the agitation will become formidable, & may so grow in its scope as to put the supporters of the Game Laws seriously on the defensive.

I thus strongly advise that the present concessions may be granted, with a view at once of giving relief to such planters as may be suffering, and of suppressing the agitation.

Hodgson wishes me to add that the preservation of Game has not ~~had~~ resulted in a

Le M

Read Cus 990 / 97.

Cont. Dis: No. 1509. d 18th March 1911.

Referred to the Hon: the Advocate
General for favour of opinion of the
legality of the Course proposed by the
Bd of Rev and as to the best method of
Securing the object in view.

2. As it appears to Govt, the proviso to Sec 22 of the Madras General Clauses Act 1891 has the issue of a notification exempting specified areas from the operation of M. Act II of 1879. It would however seem practicable to meet the requirements of the Case by issuing a notification cancelling, so far as it relates to certain specified areas, the orders passed under Sec 3 of M. Act II of 1879 ~~prescribing~~ a close season. The drawback to this plan however consists in the apparent necessity of issuing a fresh notification on each occasion when circumstances arise which in the Collr's opinion render expedient the grant of special exemptions from the provisions of the Nilgiri game act.

17. 28)

The Gov. ^{11/10/90} ~~Sept.~~ with B.P. & Holger
in original - also. a s.c. of
90^s. No. 7 Rev ^{490 Pub}
10. 1. 94 ^{2nd May 1879}

Harzora Heam.

The A.G. should get a copy of the
return applying to A of 1899 to the
District. It is not in the file
a copy of the two
is now put up in the file

general interest of South
in the planting district; that
the majority of planters are
in favour of preservation; that
they co-operate in preservation
in the large areas under their
control; that the chief condition
of satisfaction in all this I
agree.

I beg you will obtain the per-
mission of the Board to forward
this note on to Government.
Yours sincerely
J. H. Memminger

My dear Carl,
Hastings, S. I. 2. 1892.

Madison, 13. Dec. 1896.

5176
Militia, Collector's Office

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189

READ AGAIN G.O., No.
 189

DATED

CURRENT

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT

STATEMENT - ~~THE~~ DITTO

PAPERS NOT FILLED UP, BEING MEANT FOR DESPATCH
 IN ORIGINAL.

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