

Revenue (1898) Department.

PRESS SERIES.

G.O., No. 200

DATED 5th April 1898.

[Despatch Abstract.]

Regulations of the Chenchus in the Nallamalai Range.

Approved, subject to certain modifications,
rules framed by the S.D. for regulating the
the publication in the Fort St. George & Kurnool D.L. Gazette.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
<i>Mr. 156 1-127, 5-5 78</i> <i>CNO 3724/98 10 2343</i> <i>2-6 78</i>							

Order

Revenue (189 8) Department.

CURRENT No. 87

From The Secretary
to the Board of Revenue
Land Revenue
Malaya

Forest No. 21

Dated 19th January

Received 1st } Feb: 1898

Registered 2^d }

Enclosures . 2 .

Spare copies

SUBJECT.

Passing orders on
general question of
rights in respect of the
malai reserves in the
north St. and Subms:
providing and publication
the For: St. Geo. Local
notification embodying
rules for the regulation
rights.

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G.O.	No.	Department.	Date.
	5413		
	5414		
P.O.	5415		12-5-91
	5416		12-5-91
	5417		21-4-91
	5418		2-5-92
	5419		28-5-93
	5420		12-5-94
	5421		12-5-94

G.O.	No.	Department.	Date.

to be Dispatched
 before the ~~the~~ ^{the} Gazette, please
 this notification to the Gazette, please
 See that all the alterations & additions
 have been correctly carried out

54.98

DRAFT NOTIFICATION.

His Excellency the Governor in Council is pleased to make the following rules for regulating the exercise of certain rights admitted at settlement in favour of the Chenchus, hill tribes, living in the reserved forests on the Nallamalais in the Kurnool district:—

1. The carrying of torches, and the lighting of bonfires, during the season are prohibited.
2. There shall be no right to wash or bathe in such springs, wells, pools or portions of streams as are especially set apart for drinking purposes by the District Forest-officer.
3. No more than the quantity which the Collector may consider to be actually required for domestic use shall be removed in the exercise of the right to take wood, bamboos, fibre, thatching grass, firewood, roots, fruits, honey and other forest produce. ~~No wood other than poles and smaller pieces of third-class and unclassified trees shall be removed.~~ The term "other produce" shall be taken to mean other minor forest produce, not including tusks and horns.
4. No gudam (Chenchu village) shall, without the special permission of the Collector, be allowed to keep a larger number of guns than that for which licenses had been taken out at the time of settlement.
5. For purposes of regeneration, a portion of the area set apart for the grazing of cattle, not exceeding one-fifth, may be closed to grazing at any time and for such length of time as the District Forest-officer deems fit.
6. The right of pre-emption of all minor forest produce collected by the Chenchus for sale or barter, shall be reserved to the Forest Department. The exercise of the right of collecting wood and other produce for domestic use, and of collecting minor produce for sale or barter, shall be confined to natural growth, and shall not include forest produce which is the result of special plantation or protection on the part of the Forest Department.

Receives
Secretary

* No wood other than poles and smaller pieces of third class & unclassified trees shall be removed.

of third class & unclassified vessels shall

④ Every gun covered by a license shall be stamped with a distinctive mark or number. The use of poison and of explosives in water & the setting of mines or fixed engines or snares for the capture or destruction of fish are strictly prohibited.

Examiner

When the proof of the
notification ~~has~~ is received
before publication in the
Gazette, please send it to me
also for approval.

pm
5.44 98

1898.

Board of Revenue

(Land Revenue),

MADRAS.

Printed January th.

Proceedings, Forest No. 21, 19th January 1898.

JANUARY.

Passing orders on the general question of Chenchu rights in respect of the Nallamalai reserves, in the Kurnool district; and submitting to Government, for approval and publication in the *Fort St. George Gazette*, a notification embodying draft rules for the regulation of such rights.

PROCEEDINGS OF THE BOARD OF REVENUE
(LAND REVENUE).

READ—again Proceedings of the Board of Revenue (Land Revenue), Forest No. 522, dated 18th November 1896.

ABSTRACT.—Recording, with remarks, inspection report of the Kurnool forests by the Conservator of Forests, Northern Circle.

READ—again the following Proceedings of the Board of Revenue (Land Revenue), Forest Mis. No. 492, dated 26th May 1897:—

Read—letter from C. M. MULLALY, Esq., Collector of Kurnool, dated 10th December 1896, Ref. on C. No. 20.

ABSTRACT.—Submitting report on the conclusion of the settlement of the Sirvel addition No. III of Bachepalle block in the Sirvel taluk, Kurnool district.

Endorsement by A. W. PEET, Esq., Conservator of Forests, Northern Circle, dated Waltair, 24th December 1896, R. C. No. 1171.

Forwarded. The rights given to the Chenchus are most objectionable. They were unfortunately admitted by Mr. Murray, the then District Forest-officer. The admission seems more sweeping than in the case of the rights admitted by Mr. Sim, for these were subject to revision by Government. I believe that the so-called rights never existed, for Government always had the power of alienating the whole area of the forests under patta conveying adverse rights to the pattadar. At the best privileges only could be maintained, and we have found it practically impossible to work the forests satisfactorily while these so-called rights are admitted.

Resolution—Forest Mis. No. 492, dated 26th May 1897.

The settlement records received with the letter read above will be returned to the Collector of Kurnool for revision and resubmission with reference to the following remarks:—

(iii) Claim 11.—As regards the admission at settlement on behalf of the Chenchus of the right to minor forest produce, &c., the Collector's attention is drawn to the remarks of the Conservator in his forwarding endorsement, and he is requested to take this opportunity to give reference to the subsequent correspondence on the question of Chenchu rights referred to in the note appended to the Forest Settlement-officer's decision.

(True Copy and Extract.)

(Signed) N. S. BRODIE,
Acting Secretary.

To the Collector of Kurnool, with five enclosures returned.
Copy to the Conservator of Forests, Northern Circle.

READ—also the following letter from E. A. ELWIN, Esq., Acting Collector of Kurnool, to the Secretary to the Commissioners of Land Revenue, dated 1st October 1897, R.C. No. 20-Forest:—

With reference to paragraph 3 of Board's Proceedings, Forest Mis. No. 492, dated 26th May 1897 (returning for revision the settlement papers of Bachepalle block), I have the honour to forward herewith a note by Mr. Lodge on the general question of Chenchu rights. In the particular case in question the Chenchus have already been granted extensive rights in the Sirvel reserve (*vide* Government Order, Nos. 119, 119-A of 17th February 1891, communicated with Board's Proceedings, Forest No. 187, dated 5th May 1897) similar to those detailed in the enclosed note, and it was therefore quite unnecessary to give them similar rights in the Terai block; moreover as regards the right to graze cattle it should have been stated whether the cattle admitted to the Terai block are the same as, or in addition to, those admitted to the main block. As a matter of fact the gudem hardly possesses any cattle and the admitted right being in favour of a larger number of cattle than were proved to exist is *ultra vires*.

If, however, it is decided to revise all Chenchu rights, the above case can be taken along with the others, so as not to delay the publication of the notification under section 16.

2. I can fully endorse Mr. Lodge's statement of the behaviour of the Chenchus during the current year; they have been the cause of no little trouble and anxiety and except in a few instances entirely refused to work. In the Cumbum division they looted several villages near the foot of the hills.

ENCLOSURE.

Note on Chenchu rights.

In paragraphs 58, 69, 70, 71 of his inspection note, printed in Board's Proceedings, Forest No. 522 of 18th November 1896, the Conservator went into this question, but the Board directed that a separate report should be submitted.

2. As regards the character of the Chenchus my opinion as recorded in paragraph 68 of the Conservator's note remains unchanged. During the present famine several endeavours have been made to get the Chenchus to work (at line-clearing and similar works) as they said they were starving; in only one place would they accept work. At other places they said "No, we are not used to work, we like to wander in the forests and do nothing; we will not send our women and children to kitchens, but if you like to give us grain we will accept it." Naturally Government was not going to feed a lot of able-bodied good-for-nothings who refused to work; then came threats to loot the villages, and then actual loot of grain and herds of cattle. The police succeeded in rescuing 112 goats stolen from Akuvud, and I believe, the Chenchus, by way of retaliation, fired into the police camp at night.

3. There are altogether about 50 gudems (Chenchu villages) in or adjoining the Nallamalai reserves. Most of them are situated near the exterior of the forests, and the Chenchus make their living partly by supplying merchants with stolen timber and other produce. To these men certain rights were given at settlement, but a perusal of any of the settlement registers will show that the intention of the Forest Settlement-officer was to grant *privileges*, not *rights*. Unluckily he had no power to do this, and the Collector converted the privileges into rights.

4. As an example of the above, take Nandyal reserve settlement register (*vide* Government Order, Nos. 315, 315-A, Revenue, dated 14th April 1891, communicated with Board's Proceedings, Forest No. 241 of 16th June 1891). Bairluti Gudem (14 in B. register). Under right 1 (a right to dwell at Bairluti, &c.), a proviso was made "within what the Collector may consider a reasonable distance from the same". Under right 2 to carry torches "subject to regulation by the Collector." Under right 3 to wash and bathe in all water "subject to regulation by the Collector." Under right 4 to forest produce "of such kinds and in such quantities as the Collector may consider reasonable"; and so on. Then follows a general proviso, limiting the rights to Chenchus, stating that with one exception the rights are not exclusive or monopolies, that they exist during good behaviour only, that the Forest Department shall have first right of purchase of all produce collected for sale under right 7, and that no outside labour should be employed. I think it is evident that the Forest Settlement-officer could not have imposed these conditions on rights, and

that he correctly treated the so-called rights as privileges; more especially as Government about that time issued an order that the rights and privileges of jungle tribes were to be carefully preserved at settlement (*vide* also Board's Proceedings, Forest No. 442, dated 10th June 1893, page 10, rule 15).

5. From the remark column of the settlement register it appears that the Forest Settlement-officer subsequently reviewed and modified his own or rather his predecessor's orders, although this is, I believe, *ultra vires*; here again the review note headed paragraph 6 shows that privileges, not rights, were considered "after communication with the Chenchus, and ascertaining their wishes, I direct . . ."; thus there was no attempt at proving a claim, it was merely a case of ascertaining the wishes of the Chenchus.

6. Then came the Collector's review (not appeal decision), the authority for which is not clear, in which he struck out all restrictions and all provisos, which were not merely definitions, inserting in their place one proviso, viz., "they are subject to regulation by such rules as may, from time to time, be framed by His Excellency the Governor of Fort St. George in Council."

7. Before going further, I would draw attention to the omission (probably a printer's error) in the Collector's review order of the following entry, "paragraph 7—the word *sole*"; a reference to the words ordered to be struck out of proviso (c) and to the corresponding right and review order in other gudem will show that this entry ought to be made.

8. Having established the fact that the so-called rights were originally admitted as privileges, the next question is what regulations are necessary and how can they be legally enforced. It seems to me that if the Collector's review order is legal, regulations can be enforced under the proviso passed by him; if illegal, then the rights are privileges subject to regulation by the Collector, and subject to the Forest Settlement-officer's original provisos.

9. In my note of 5th May 1895, I stated, "if the forests are to be worked and improved the Chenchus must be controlled; at present they are active destroying agents . . . in order to obtain control over them, we must begin at their gudems. Limits have been fixed for these, but the limits are not respected . . . The right of pre-emption, which was originally provided for at settlement, must be introduced. We must purchase all minor forest produce from them and make it illegal for them to sell to others or for others to purchase from them. The produce thus purchased must (except so much as is required for local consumption) be exported beyond the district for sale; it will soon become impossible for local merchants to have any such produce in their possession except by illegal purchases from the Chenchus; a few prosecutions will soon stop this. If once the Chenchus depend on us for their money or grain, we shall be able to make some progress with them." There does not, at present, seem any better method of getting some control over the Chenchus, and until we have some control we cannot enforce regulations.

10. The following regulations of Chenchu rights appear necessary:—

Right 1.—The dwelling site to be strictly limited to the area admitted at settlement. At present Chenchus shift their gudems just as they choose; such shifting is only temporary, but may do much damage, and also enables Chenchus to evade the arm of the law.

Right 2.—The carriage of torches and lighting of fires in fire-protected blocks during the fire season must be prohibited.

Right 3.—Right to drink and draw water from and to wash and bathe in *all* streams, pools and springs. In the first place the word "existing" should be entered after "all" for no Forest Settlement-officer could bestow a right over wells still undug, or pools still unformed, secondly this right should not apply, as regards bathing and washing, to such streams, pools and springs as may be specially set apart for drinking purposes by the District Forest-officer; it is most important that drinking-water sources should be kept as pure as possible, and the Chenchus are neither a clean nor a healthy race.

Right 4.—Right to wood, bamboos, fibre . . . and other forest produce for domestic use.

(a) The quantity to be taken annually must be limited, especially in the case of wood, bamboos, fibre, firewood and honey. Supposing that the gudem doubles in size in the next 30 years, is the burden on the forest also to be doubled? In the settlement of the French communal forests all rights were limited to what existed 60 years prior to the settlement, on the grounds that it takes 60 years to acquire a right against Government, in the case of the Chenchus the rights might be limited to the actual requirements of each gudem at the time of settlement.

(b) The quality of the wood and of "other forest produce" should be defined. Chenchus do not require teak or ebony beams or yegi spokes and felloes for domestic purposes, but as the right now stands they can fell whatever they like, and though we may know it is for sale to merchants, the Chenchus have only to say it is for domestic use and they cannot be punished. The wood should be limited to "poles and smaller pieces of third-class and unclassified trees"; other forest produce should read "other minor forest produce," and I should like to see "excepting tusks and horns" added.

Right 5.—Right to shoot and fish; this right should be subject to the rules under section 26; it should also be stated how many guns or bows each gudem is entitled to use; the number of guns should be restricted to the number for which licenses were held at the time of settlement, as the Forest Settlement-officer could not confer a prospective right; the number of guns is rapidly increasing, and as stated in paragraph 2 they . . . being used against the police. Every gun should be stamped, so that one license could not be made to do duty for half a dozen guns. In 1891 only 22 gun licenses were issued to Chenchus in the whole district, now every gudem has two or three.

Right 6.—Right to graze cattle; this extends over the whole of the forest attached at settlement to each gudem; for purposes of regeneration it will be necessary to close portions of this area from time to time, and therefore a proviso, authorizing the closure of one-fifth of the area to grazing at any time and for any length of time, should be added.

Right 7.—Right to collect for sale certain minor forest produce (*vide* paragraph 9 *supra*). If the right of pre-emption of the Forest Department is restored, the Chenchus will soon learn to look upon the department as their employer and food-supplier and we shall then begin to control them and introduce order. Proviso (c) should also be restored; without it, if we plant mangoes the Chenchus are free to gather the fruit.

11. With reference to right 7, I venture to say that it never existed prior to settlement. The merchants employed any one they could get to bring down certain produce for them, and paid them coolly-hire either by the day or by results; the Chenchus being hill men were no doubt largely employed, but there still are plenty of ordinary labourers who live by bringing out certain minor produce for the merchants and are paid so much per maund, yet no right was admitted in their favour, because the produce was admittedly Government property. The Chenchus, however, have been made a handsome present of produce which properly worked would be worth at least Rs. 1,00,000 per annum; this was not the Forest Settlement-officer's intention—*vide* proviso (f); had this proviso stood, the Chenchus would have had something more approaching to what they ought to have, viz., a prior right to be employed for the collection of minor produce for the department at reasonable rates.

(Signed) F. LODGE,
District Forest-officer.

CAMP, KOMAROLE,
25th August 1897.

Endorsement by A. W. PEET, Esq., Conservator of Forests, Northern Circle,
dated Camp, Ellamanchili, 14th October 1897, No. 621.

In forwarding I have the honour to state that I have already expressed my opinion more than once on this matter of the Chenchus. The settlement which gave them "rights" was made in the infancy of the operations under the Madras Forest Act, and it seems clear that privileges were intended rather than rights.

Although I think that Mr. Lodge's estimate of the minor forest produce realisable (Rs. one lakh) is much too high, yet the present loss to Government is large, and I think the Chenchus do not benefit more, except in the way of black-mail, than they would under privileges such as are accorded to other forest tribes in other settlements. I believe that much theft to the advantage of traders goes on under cover of the Chenchu rights. As regards limitations I agree with Mr. Lodge's recommendation.

RESOLUTION—Forest No. 21, dated 19th January 1898.

In scrutinizing the settlement records of the Sirvel addition III of Bachepalle block in the Kurnool district, the Board found that the commutation of the Chenchu rights contemplated in the first instance by Mr. Lever in claim 11 had not been effected by his successor, Mr. Smith, pending the final decision of Government on the general question of these rights. On a further reference to the Collector, he has submitted a note from his District Forest-officer, Mr. Lodge, which deals with the question at some length, and serves also as a reply to the Board's call in paragraph 10 of its Proceedings, Forest No. 522, dated 18th November 1896, for a separate report on the subject.

2. The history of the Chenchus, as gathered from these papers, is briefly as follows:—

There are about fifty gudems (Chenchu villages) in or adjoining the Nallamalai reserves, most of which are situated near the exterior of the forests. The Chenchus who inhabit them are a class of semi-wild hill tribes and are described as a "thieving set of brigands," who make their living partly by supplying merchants with stolen timber and other forest produce. They are also said to levy black-mail from the graziers in the hills, from pilgrims to the shrines and from every village at the foot of the hills, the crops of the ryots being looted in the case of refusal. They think nothing of felling a tree in order to collect its fruits, and they fire miles of forest in order to collect minor produce or to track game.

3. On an examination of the claim register of the Nallamalai blocks gazetted as reserved forests in 1891, it is found that the undermentioned "rights" were admitted at settlement, on the ground that the Chenchus had exercised the same from the times of their ancestors subject to general regulations and occasional interference by the Sircar:—

- (i) Right to dwelling sites together with the attendant rights of building, storing, clearing, lighting fires, &c.
- (ii) Rights of way and rights to carry torches.
- (iii) Right to drink and draw water from all streams, pools, springs and wells.
- (iv) Right to forest produce for home use.
- (v) Right to fish and shoot.
- (vi) Right to graze a limited number of cattle including goats and sheep.
- (vii) Right to collect for sale or barter certain minor produce.

4. Taking as a typical case claim * 14 of Nandyal reserve, Mr. Lodge contends

that the then Settlement-officer, Mr. Sim, who adjudicated on the Chenchu claims, evidently contemplated the grant of privileges and not rights. However this may be, the orders actually passed at settlement are binding, and the only point for

consideration is what arrangements can now be made without infringing these orders. To begin with, the Board observes that the District Forest-officer's statement in paragraph 6 of his note, to the effect that the Forest Settlement-officer has subsequently modified his own or his predecessor's decision, is incorrect as the modification of the Forest Settlement-officer's decision referred to by the District Forest-officer was made by the Collector acting as an appellate authority and reviewing his own judgment. This the Collector had power to do under the High Court ruling communicated in Board's Proceedings, No. 551, dated 28th September 1887. The best method of dealing with the Forest Settlement-officer's decisions in the matter of the Chenchu rights was carefully considered by the Board and Government, and the appeal memoranda in respect of them were prepared by the then Conservator, Mr. Gamble, in accordance with the instructions contained in paragraphs 15 to 18 of Board's Proceedings, No. 200, dated 17th April 1886, embodied in Government Order, No. 541, Revenue, dated 1st July 1886. The validity of the appeal and the review judgments on the Chenchu rights seems to be beyond dispute and should be

acted on. In the Collector's review orders† he distinctly laid down that the several Chenchu rights were subject to regulation by such rules as might be framed by His Excellency the Governor in Council, and as

the Chenchus are now reported to have become uncontrollable, and the proper working of the Nallamalai reserves is therefore rendered impracticable, definite rules or regulations must be framed in order to re-establish the necessary control.

5. With this object in view, the Collector and the Conservator recommend the issue of rules on the lines indicated by the District Forest-officer. The Board

considers that the area of dwelling sites referred to in the District Forest-officer's proposed rule 1 having been definitely fixed at settlement, no further rule is called for in respect of the same beyond a warning to the Chenchus to confine themselves strictly to the area allotted to them at settlement. In regard to the regulation of other rights, the Board submits the following draft notification embodying the necessary rules. It is requested that, in the event of the draft being approved, orders may be issued for its publication in the *Fort St. George Gazette*.

6. It will be understood that, when the rules have been sanctioned by Government, the purport thereof is to be personally explained to the leading men in the Chenchu villages by the Tahsildar and a Forest Ranger, and the greatest care must be taken not to enforce too suddenly any restrictions which the rules prescribe for the first time.

(True Copies and Extract.)

Secretary.

To the Secretary to Government, Revenue Department, with two printed notifications.

End P. Seetharam.

Read Progs. of the Board of Revenue,
Forest No. 21, d/19th Jan'y. 1898 (C. No. 873)

Note:

With
in the Progs. read above, the
Board of Revenue forwards for the approval
of Govt. and for publication in the Fort
St. George Gazette a draft notification
containing certain rules for regulating
the exercise of certain rights admitted
during settlement on behalf of the Chenchus
(a hill tribe) within the reserved forests
on the Malkamalais.

B. Registers of claims

2. From the ~~notifications under section~~
it is pointed out in G.Os. 191, 315 and 351 of
1891 will be seen that these rights as at
first admitted by the Forest Settlement
Officer were subject to regulation by the
Collector besides being limited by other
conditions such as that the Forest Deptt.
had a right of preemption over the forest
produce collected by the Chenchus, that
the right to collect such produce extended
only to natural growth etc. But on appeal
to the Collector under section 14 he so

(e-g) please see Decision on claim No. 3
on page 10 of G.O. 351 (flag 0)
26-4-91

C-21/3/98
24/5/98

confirmed the rights but made them subject to such rules as may from time to time be framed by H.E. the Governor in Council.

3. In paras 68 to 71 of the report on *in B.P. in G. 609 m. (pages 17-20) 2.2.97*
flap F.
 the inspection ~~in~~ of forests in Kurnool, the

Conservator N.C. brought to the notice of the Board the damage done to the forests by the Chenchus who under cover of the exercise of admitted rights felled valuable timber for sale to private traders, fired miles of forests to collect minor produce with ease or trace game and poison^{ed} the streams throughout the hills, and also pointed out the consequent necessity of

restricting the rights admitted during settlement. ^{In} passing orders (on the inspection report) the Board called for a separate report on the subject of restricting the Chenchu rights.

4. The "Note on Chenchu rights" drawn *pages 3-5 of the Current*
 up by the Dt. Forest Officer and endorsed by the Collr. contains a detailed description of the character and behaviour of the ~~hillmen~~ hillmen, the extent of damage done by them to valuable timber; the note

also indicates the lines on which rules for controlling them and for regulating the rights admitted in their favour should proceed.

5. The various rights allowed to the hillmen during settlement, the proposal of the D.F.O. to restrict such rights together with the modifications made by the Board are detailed below.

6. Right I

Right to dwell within the areas set apart as dwelling sites.

The D.F.O. proposes to frame a rule limiting the dwelling sites to the areas admitted during settlement so as to prevent the Chenchus ~~in~~ ~~from~~ from shifting their gudem (villages) as they choose.

The Board considers that the area of the dwelling site for each gudem having been definitely fixed at settlement, no separate rule is called for and that it would suffice to warn the Chenchus to confine themselves strictly to the area allotted to them at settlement. The Govt. may, it is submitted concur in the Board's opinion

** please see notifications under Section 16 printed in S.O's 191, 315 & 351 of 1891, pages 33, 34 & 42 respectively. (flap K, M & I).*

para 10 of the note in the Current (right 1)

+ I am proposing shifting, such as the 1000 ft. distance should be destruction of any stone or at 700 ft. distance. Permanent change not be allowed. Permanent change of 100 ft. to 150 ft. deal with this case as an exception.

I think the rule might permit the gudem to be changed with the sanction of the S.P. of Rev. +

S.P.

14

7. Right II

The right of way along all paths right to go any ~~way~~ where in exercise of admitted rights and right to carry torches.

The D.F.O. proposes to prohibit the carrying of torches and the lighting of fires in fire protected blocks during the fire season. This is embodied as rule 1 of the draft rules submitted by the Board. The necessity for such a restriction seems clear and the rule may, it is submitted, be approved.

8. Right III

The right of drinking and drawing water from all streams springs wells and pools and of washing and bathing therein

The D.F.O. considers that the right should not apply as regards bathing and washing to such streams pools and springs as may be specially set apart for drinking purposes (by the D.F.O.). This proposal forms draft rule 2 and may it is submitted be approved.

(According to the D.F.O.'s statement the illmen are neither clean nor a healthy race).

In this connection the D.F.O. points

para 10 of the note in the Current (right 2).

* flay B.

8/12 83

para 10 of the note in the Current (right 3)

8/12

para 10 of D.F.O.'s note in the Current (Right 3)

out that the right admitted during settlement in respect of all streams &c. should be limited to those that existed during settlement (as the Forest Sett. Officer could not have conferred a prospective right). This has not been included in the draft rules being probably in the Board's opinion a matter of small importance.

9. Right IV

Right to wood, bamboos, fibre thatching grass, firewood, fruits, roots, honey and other forest produce for bona fide home use only, ^{but} not for sale or barter.

With regard to this the D.F.O. propose that the quantity of wood and other forest produce should be limited to what their actual requirements of each village were at the time of settlement. The Board has ~~however~~ modified the proposal and lays down in draft rule 3 that the quantity shall be what the Collr. may consider to be actually required for domestic use. The rule as proposed by the D.F.O. seems difficult to enforce and might moreover work hard on the hillmen; the modifica

As this as it may, it seems clear that the F.S.O. does not want to cover future streams formed after his decision

Nothing need be said about this 29

para 10 of D.F.O.'s note in the Current (Right 4).

1872.

∴ for a list of 3rd class classified ^{work in the}
please see page 47 of E.C. $\frac{387}{26.5.97}$ E). 2/1

1872

It would make the
plain to add the last and
the last but one, and substitute
for, "the term, ^{the} other produce,"
the words, "and the term, 'other
foreign produce'."

para 10 of the note in the Current
(repl 5).

85

He swears that they do apply. Law
overrides decisions; but they will
always be aware or less of a
dead letter law. Although as the
law is the law, what matter
if it is not applied in all cases.

But it has been ^{us} | no
On appeal it has been Th
decided subject to my - } the court
th

Orders are requested as to whether
 .0's proposal marked (C) which requires

16 the Board may there.

that each of the guns used by the Chenchus within the reserved forests to be specially stamped should be embodied in the draft rules.

In connection with the wording of the draft rule 4 it is submitted that as the rule purports to restrict the number of guns that may be used by the Chenchus within the limits of the reserved forests the word "keep" should be preferably be "use".

11. Right VI

Right to graze, water and herd a specified number of cattle.

The right as it stands at present extends over the whole of the forest area attached to each village during settlement, but as for purposes of regeneration it might be found necessary to close ~~portions of the~~ ~~area~~ from time to time portions of the area set apart for grazing purposes, the D.F.O. therefore suggests that a proviso should be added authorizing the closure against grazing of one-fifth of the area at any time and for any length

I don't see there is any objection to this. It is not done anywhere else I think, - but the cases are special: it would be an excellent check otherwise the rule may be appeared.

I think two stamps are ordered - and the use of powder to (Rule 5) be prohibited.

para 10 of the note in the Current (right 7).

para 10 of the note in the Current (right 6)

of time. The Board has embodied the proposal in draft rule 5 with the modification that the length of time should be what the D.F.O. deems fit.

The necessity for such a rule being apparent, the Govt. may it is submitted approve the rule as modified by the Board 12. Right VII

Right to collect for sale or barter certain minor forest produce.

The D.F.O. thinks that the Forest Dept. should have a right of preemption to the minor forest produce which the Chenchus are allowed to collect for sale or barter.

Secondly that the right to collect wood and other minor forest produce both for domestic use and for sale or barter should be confined to natural growth and not extend to forest growth which is the result of special plantation or protection on the part of the Forest Dept.

These proposals are embodied in draft rule 6. - The necessity for the provision restricting to natural growth the right of the Chenchus to collect wood &c. is

clear. The draft rule which ^{only} carries into effect what was undoubtedly the intention of the Forest Sett. Officer ⁱⁿ granting the right may therefore, it is submitted, be approved.

Orders are requested as to whether the rule regarding the preemptive right of the Forest Deptt. should also be approved.

If as till now the Chenchus are to continue to remove any kind of wood for domestic use it might be necessary to impose the right of preemption in order to prevent the hillmen from cutting valuable timber under the

plea that it is intended for domestic use and selling the timber afterwards to private traders. But under draft rule 3 it is proposed to restrict the quality of the wood removable by the Chenchus for bona

fide domestic purposes to poles and smaller pieces of third class and unclassified trees. Moreover the preemptive right if enforced might seriously affect the right ~~of the~~ granted to the hillmen under section 11 of the Forest Act to barter the produce collected.

The object to be gained by the ~~rule~~

21 11
imposition of the right of preemption is expressed in the D.F.O's. note as follows:

"If the right of preemption of the Forest Deptt. is restored the Chenchus will ~~have~~ soon learn to look upon the Deptt. as their employer and food supplier and we shall then begin to control them and introduce order"

*This is a recommendation
it is a recommendation
the greatest importance
and the whole matter
therefore is approved*

Yes: a right of preemption is not an exclusive right: it only means that the Forest Deptt. have the right to buy at the market rate. If they

*See
* before 1903 in the B. Deptt. in 1903
page 10 of (1903)*

Do not choose to offer that price, the Chenchus can sell elsewhere. If anything else is meant it should be clearly stated

19/3/98

This last consideration is it is submitted of the greatest importance. The Forest Deptt. must get a hold over these tribes which will render their obedience a matter of course.

The rights of these people being restricted by the above rules any ^{act} ~~exercise~~ beyond their privileges will come under the general forest law & be punishable. As the F.D. point out, however, the restriction must be introduced with care & sympathy.

13/98

210

12/3/98

rule
22
regulation of the right
at settlement was
subject to rules to be
by the Govt. The
proposed are reasonable
as far as noted
margin already

See notes above

24/3/98

19/3/98

Please see draft order submitted

1.4.98
Jone

8/3/98

25
Read Proceedings of the Board of Revenue
Forest No. 21 d/ 19-1-98. (C.No.873 of '93)

G.O. (Press) No 200 d/ 5th April 1898.

The rules framed by the Board
for regulating the rules conceded to
the Chenchus at the settlement of Nalla-
malais are approved, subject to the follow-
ing modifications and remarks:-

2.(a). Dwelling sites. The Govt. agrees
with the Board that the Chenchus should,
as a rule, be confined to the area allot-
ted to them at settlement. Temporary
shifting such as Mr. Lodge describes must
be destructive of any attempt at forest
conservancy and should not be allowed. Per-
manent change may, however, be sometimes
required. Such exceptional cases should
be dealt with by the Board as they arise.

(b) Removal of Forest produce. Draft
Rule No. 3. This rule ^{will} be made
more clear by transposing the last two
sentences and substituting the words
"other forest produce" for the words

See
in the thin Bk the H. was
in the thin Bk the H. was
page 6. H.

"other produce" occurring in the last sentence.

(c) Shooting and Fishing- Draft Rule No. 4.

The Govt. considers that it would be ad-
-sable to stamp every gun licensed with
a distinctive mark or number so as to
prevent the abuse alluded to by the Dist.

Forest Officer. The following addition
will, therefore, be made to the rule:-

"Every gun covered by a license shall be
stamped with a distinctive mark or number".

The following clause should also be
added:-

"The use of poison and of explosives
in water and the setting of *crucis* or
fixed engines or snares for the capture
for destruction of fish are strictly pro-
hibited."

(d) The right of pre-emption by the
Forest Dept- Draft Rule No. 6.

The Govt. presumes that all that is
intended by the first sentence of the
proposed rule is that the *same* Forest Dept. should
have the first right to buy at the

market

market rate, and that if ~~not~~ choose
to buy at the ~~market~~ rate the Chenchus *will*
be at liberty to seek
~~can go elsewhere for a purchaser elsewhere.~~
3. The rules, as modified, will be pub-
lished in the Fort St. George and Kurnool
District Gazettes. As pointed out by the
Board the rules should be ~~introduced~~ *worked*
with care and sympathy.

Me
4/4/88

PA 5/4/88

25-29-4-28
To the Board of R.R.
Suplt of Fort St. George and Kurnool

See
Annex is a Dams or wein
the words are those of Rule
8 of the rules under Sec. 216
vide G.O. 325 of 10 July 96 Tagg
para 14.

Government {1898} of Madras.
REVENUE.

Recd.

Enclosures

1898.

Regd.

Spare copies

G.O., No. 200, 5th April 1898.

APRIL.

Rights of the Chenchus in the Nallamalai Reserves.

Approving, subject to certain modifications and remarks, the rules framed by the Board of Revenue for regulating the —, and ordering their publication in the Fort St. George and Kurnool District Gazettes.

REVENUE DEPARTMENT.

To the Collector of Kurnool, with five enclosures returned.
Copy to the Conservator of Forests, Northern Circle.

4. As an example of the above, take Nandyal reserve settlement register (*vide* Government Order, Nos. 315, 315-A, Revenue, dated 14th April 1891, communicated with Board's Proceedings, Forest No. 241 of 16th June 1891). Bailruti Gudem (14 in B register). Under right 1 (a Forest No. 241 of 16th June 1891). Bailruti Gudem (14 in B register). Under right 1 (a right to dwell at Bailruti, &c.), a proviso was made "within what the Collector may consider a reasonable distance from the same". Under right 2 to carry torches "subject to regulation by the Collector." Under right 3 to wash and bathe in all water "subject to regulation by the Collector." Under right 4 to forest produce "of such kinds and in such quantities as the Collector may consider reasonable"; and so on. Then follows a general proviso, limiting the rights to Chenchus, stating that with one exception the rights are not exclusive or monopolies, that they exist during good behaviour only, that the Forest Department shall have first right of purchase of all produce collected for sale under right 7, and that no outside labour should be employed. I think it is evident that the Forest Settlement-officer could not have imposed these conditions on rights, and

that he correctly treated the so-called rights as privileges; more especially as Government about that time issued an order that the rights and privileges of jungle tribes were to be carefully preserved at settlement (*vide* also Board's Proceedings, Forest No. 442, dated 10th June 1893, page 10, rule 15).

5. From the remark column of the settlement register it appears that the Forest Settlement-officer subsequently reviewed and modified his own or rather his predecessor's orders, although this is, I believe, *ultra vires*; here again the review note headed paragraph 6 shows that privileges, not rights, were considered "*after communication with the Chenchus, and ascertaining their wishes, I direct* . . ."; thus there was no attempt at proving a claim, it was merely a case of ascertaining the wishes of the Chenchus.

6. Then came the Collector's review (not appeal decision), the authority for which is not clear, in which he struck out all restrictions and all provisos, which were not merely definitions, inserting in their place one proviso, viz., "they are subject to regulation by such rules as may, from time to time, be framed by His Excellency the Governor of Fort St. George in Council."

7. Before going further, I would draw attention to the omission (probably a printer's error) in the Collector's review order of the following entry, "paragraph 7—the word *sole*"; a reference to the words ordered to be struck out of proviso (c) and to the corresponding right and review order in other gudems will show that this entry ought to be made.

8. Having established the fact that the so-called rights were originally admitted as privileges, the next question is what regulations are necessary and how can they be legally enforced. It seems to me that if the Collector's review order is legal, regulations can be enforced under the proviso passed by him; if illegal, then the rights are privileges subject to regulation by the Collector, and subject to the Forest Settlement-officer's original provisos.

9. In my note of 5th May 1895, I stated "if the forests are to be worked and improved the Chenchus must be controlled; at present they are active destroying agents . . . in order to obtain control over them, we must begin at their gudems. Limits have been fixed for these, but the limits are not respected . . . The right of pre-emption, which was originally provided for at settlement, must be introduced. We must purchase all minor forest produce from them and make it illegal for them to sell to others or for others to purchase from them. The produce thus purchased must (except so much as is required for local consumption) be exported beyond the district for sale; it will soon become impossible for local merchants to have any such produce in their possession except by illegal purchases from the Chenchus; a few prosecutions will soon stop this. If once the Chenchus depend on us for their money or grain, we shall be able to make some progress with them." There does not, at present, seem any better method of getting some control over the Chenchus, and until we have some control we cannot enforce regulations.

10. The following regulations of Chenchu rights appear necessary:—

Right 1.—The dwelling site to be strictly limited to the area admitted at settlement. At present Chenchus shift their gudems just as they choose; such shifting is only temporary, but may do much damage, and also enables Chenchus to evade the arm of the law.

Right 2.—The carriage of torches and lighting of fires in fire-protected blocks during the fire season must be prohibited.

Right 3.—Right to drink and draw water from and to wash and bathe in *all* streams, pools and springs. In the first place the word "existing" should be entered after "all" for no Forest Settlement-officer could bestow a right over wells still undug, or pools still unformed, secondly this right should not apply, as regards bathing and washing, to such streams, pools and springs as may be specially set apart for drinking purposes by the District Forest-officer; it is most important that drinking-water sources should be kept as pure as possible, and the Chenchus are neither a clean nor a healthy race.

Right 4.—Right to wood, bamboos, fibre . . . and other forest produce for domestic use.

(a) The *quantity* to be taken annually must be limited, especially in the case of wood, bamboos, fibre, firewood and honey. Supposing that the gudem doubles in size in the next 30 years, is the burden on the forest also to be doubled? In the settlement of the French communal forests all rights were limited to what existed 60 years prior to the settlement, on the grounds that it takes 60 years to acquire a right against Government, in the case of the Chenchus the rights might be limited to the actual requirements of each gudem at the time of settlement.

(b) The *quality* of the wood and of "other forest produce" should be defined. Chenchus do not require teak or ebony beams or yegi spokes and felloes for domestic purposes, but as the right now stands they can fell whatever they like, and though we may know it is for sale to merchants, the Chenchus have only to say it is for domestic use and they cannot be punished. The wood should be limited to "poles and smaller pieces of third-class and unclassified trees"; other forest produce should read "other minor forest produce," and I should like to see "excepting tusks and horns" added.

Right 5.—Right to shoot and fish; this right should be subject to the rules under section 26; it should also be stated how many guns or bows each gudem is entitled to use; the number of guns should be restricted to the number for which licenses were held at the time of settlement, as the Forest Settlement-officer could not confer a prospective right; the number of guns is rapidly increasing, and as stated in paragraph 2 they are being used against the police. Every gun should be stamped, so that one license could not be made to do duty for half a dozen guns. In 1891 only 22 gun licenses were issued to Chenchus in the whole district, now every gudem has two or three.

Right 6.—Right to graze cattle; this extends over the whole of the forest attached at settlement to each gudem; for purposes of regeneration it will be necessary to close portions of this area from time to time, and therefore a proviso, authorizing the closure of one-fifth of the area to grazing at any time and for any length of time, should be added.

Right 7.—Right to collect for sale certain minor forest produce (*vide* paragraph 9 *supra*). If the right of pre-emption of the Forest Department is restored, the Chenchus will soon learn to look upon the department as their employer and food-supplier and we shall then begin to control them and introduce order. Proviso (c) should also be restored; without it, if we plant mangoes the Chenchus are free to gather the fruit.

11. With reference to right 7, I venture to say that it never existed prior to settlement. The merchants employed any one they could get to bring down certain produce for them, and paid them cooly-hire either by the day or by results; the Chenchus being hill men were no doubt largely employed, but there still are plenty of ordinary labourers who live by bringing out certain minor produce for the merchants and are paid so much per maund, yet no right was admitted in their favour, because the produce was admittedly Government property. The Chenchus, however, have been made a handsome present of produce which properly worked would be worth at least Rs. 1,00,000 per annum; this was not the Forest Settlement-officer's intention—*vide* proviso (f); had this proviso stood, the Chenchus would have had something more approaching to what they ought to have, viz., a prior right to be employed for the collection of minor produce for the department at reasonable rates.

(Signed) F. LODGE,
District Forest-officer.

CAMP, KOMAROLE,
25th August 1897.

Endorsement by A. W. PEET, Esq., Conservator of Forests, Northern Circle,
dated Camp, Ellamanchili, 14th October 1897, No. 621.

In forwarding I have the honour to state that I have already expressed my opinion more than once on this matter of the Chenchus. The settlement which gave them "rights" was made in the infancy of the operations under the Madras Forest Act, and it seems clear that privileges were intended rather than rights.

Although I think that Mr. Lodge's estimate of the minor forest produce realisable (Rs. one lakh) is much too high, yet the present loss to Government is large, and I think the Chenchus do not benefit more, except in the way of black-mail, than they would under privileges such as are accorded to other forest tribes in other settlements. I believe that much theft to the advantage of traders goes on under cover of the Chenchu rights. As regards limitations I agree with Mr. Lodge's recommendation.

Resolution—Forest No. 21, dated 19th January 1898.

In scrutinizing the settlement records of the Sirvel addition III of Bachepalle block in the Kurnool district, the Board found that the commutation of the Chenchu rights contemplated in the first instance by Mr. Lever in claim 11 had not been effected by his successor, Mr. Smith, pending the final decision of Government on the general question of these rights. On a further reference to the Collector, he has submitted a note from his District Forest-officer, Mr. Lodge, which deals with the question at some length, and serves also as a reply to the Board's call in paragraph 10 of its Proceedings, Forest No. 522, dated 18th November 1896, for a separate report on the subject.

2. The history of the Chenchus, as gathered from these papers, is briefly as follows:—

There are about fifty gudems (Chenchu villages) in or adjoining the Nallamalai reserves, most of which are situated near the exterior of the forests. The Chenchus who inhabit them are a class of semi-wild hill tribes and are described as a "thieving set of brigands," who make their living partly by supplying merchants with stolen timber and other forest produce. They are also said to levy black-mail from the graziers in the hills, from pilgrims to the shrines and from every village at the foot of the hills, the crops of the ryots being looted in the case of refusal. They think nothing of felling a tree in order to collect its fruits, and they fire miles of forest in order to collect minor produce or to track game.

3. On an examination of the claim register of the Nallamalai blocks gazetted as reserved forests in 1891, it is found that the undermentioned "rights" were admitted at settlement, on the ground that the Chenchus had exercised the same from the times of their ancestors subject to general regulations and occasional interference by the Sircar:—

- (i) Right to dwelling sites together with the attendant rights of building, storing, clearing, lighting fires, &c.
- (ii) Rights of way and rights to carry torches.
- (iii) Right to drink and draw water from all streams, pools, springs and wells.
- (iv) Right to forest produce for home use.
- (v) Right to fish and shoot.
- (vi) Right to graze a limited number of cattle including goats and sheep.
- (vii) Right to collect for sale or barter certain minor produce.

4. Taking as a typical case claim * 14 of Nandyal reserve, Mr. Lodge contends that the then Settlement-officer, Mr. Sim,

* *Vide* page 24 of the register in Government Order, No. 315, Revenue, dated 14th April 1891, communicated in Board's Proceedings, No. 241, dated 12th June 1891.

who adjudicated on the Chenchu claims, evidently contemplated the grant of privileges and not rights. However this may be, the orders actually passed at settlement are binding, and the only point for

consideration is what arrangements can now be made without infringing these orders. To begin with, the Board observes that the District Forest-officer's statement in paragraph 5 of his note, to the effect that the Forest Settlement-officer has subsequently modified his own or his predecessor's decision, is incorrect as the modification of the Forest Settlement-officer's decision referred to by the District Forest-officer was made by the Collector acting as an appellate authority and reviewing his own judgment. This the Collector had power to do under the High Court ruling communicated in Board's Proceedings, No. 551, dated 28th September 1887. The best method of dealing with the Forest Settlement-officer's decisions in the matter of the Chenchu rights was carefully considered by the Board and Government, and the appeal memoranda in respect of them were prepared by the then Conservator, Mr. Gamble, in accordance with the instructions contained in paragraphs 15 to 18 of Board's Proceedings, No. 200, dated 17th April 1886, embodied in Government Order, No. 541, Revenue, dated 1st July 1886. The validity of the appeal and the review judgments on the Chenchu rights

† *Vide* Government Orders, Nos. 119, 119-A, dated 17th February 1891, Nos. 315, 315-A, dated 14th April 1891, and Nos. 351, 351-A, dated 21st April 1891.

seems to be beyond dispute and should be acted on. In the Collector's review orders† he distinctly laid down that the several Chenchu rights were subject to regulation by such rules as might be framed by His Excellency the Governor in Council, and as

the Chenchus are now reported to have become uncontrollable, and the proper working of the Nallamalai reserves is therefore rendered impracticable, definite rules or regulations must be framed in order to re-establish the necessary control.

5. With this object in view, the Collector and the Conservator recommend the issue of rules on the lines indicated by the District Forest-officer. The Board considers that the area of dwelling sites referred to in the District Forest-officer's proposed rule 1 having been definitely fixed at settlement, no further rule is called for in respect of the same beyond a warning to the Chenchus to confine themselves strictly

to the area allotted to them at settlement. In regard to the regulation of other rights, the Board submits the following draft notification embodying the necessary rules. It is requested that, in the event of the draft being approved, orders may be issued for its publication in the *Fort St. George Gazette*.

6. It will be understood that, when the rules have been sanctioned by Government, the purport thereof is to be personally explained to the leading men in the Chenchu villages by the Tahsildar and a Forest Ranger, and the greatest care must be taken not to enforce too suddenly any restrictions which the rules prescribe for the first time.

(True Copies and Extract.)

(Signed) R. C. C. CARR,
Secretary.

To the Secretary to Government, Revenue Department,
with two printed notifications.

ORDER—No. 200, Revenue, dated 5th April 1898.

Forest No. 52.

The rules framed by the Board for regulating the rights conceded to the Chenchus at the settlement of the Nalla-

malais are approved, subject to the following modifications and remarks.

2. (a) *Dwelling sites*.—The Government agrees with the Board that the Chenchus should, as a rule, be confined to the areas allotted to them at settlement. Temporary shifting such as Mr. Lodge describes must be destructive of any attempt at forest conservancy and should not be allowed. Permanent change may, however, be sometimes required. Such exceptional cases should be dealt with by the Board as they arise.

(b) *Removal of Forest produce*.—*Draft Rule No. 3*.—This rule will be made more clear by transposing the last two sentences, and substituting the words "other forest produce" for the words "other produce" occurring in the last sentence.

(c) *Shooting and Fishing*.—*Draft Rule No. 4*.—The Government considers that it would be advisable to stamp every gun licensed with a distinctive mark or number so as to prevent the abuse alluded to by the District Forest officer. The following addition will, therefore, be made to the rule:—

"Every gun covered by a license shall be stamped with a distinctive mark or number."

The following clause should also be added:—

"The use of poison and of explosives in water and the setting of cruives or fixed engines or snares for the capture or destruction of fish are strictly prohibited."

(d) *The right of pre-emption by the Forest Department*.—*Draft Rule No. 6*.—The Government presumes that all that is intended by the first sentence of the draft rule is that the Forest Department should have the first right to buy at the market rate, and that if they do not choose to buy at this rate the Chenchus will be at liberty to seek a purchaser elsewhere.

3. The rules, as modified, will be published in the *Fort St. George and Kurnool District Gazettes*. As pointed out by the Board the rules should be worked with care and sympathy.

(True Extract.)

(Signed) G. S. FORBES,
Ag. Secretary to Government.

To the Board of Revenue (Land Revenue).
" the Superintendent, Government Press, with notification.

APPENDIX.
NOTIFICATION.

His Excellency the Governor in Council is pleased to make the following rules for regulating the exercise of certain rights admitted at settlement in favour of the Chenchus, hill tribes, living in the reserved forests on the Nallamalais in the Kurnool district:—

1. The carrying of torches and the lighting of fires in fire-protected blocks during the fire season are prohibited.
2. There shall be no right to wash or bathe in such springs, wells, pools or portions of streams as are especially set apart for drinking purposes by the District Forest officer.
3. No more than the quantity which the Collector may consider to be actually required for domestic use shall be removed in the exercise of the right to take wood, bamboos, fibre, thatching grass, firewood, roots, fruits, honey and other forest produce. The term "other forest produce" shall be taken to mean other minor forest produce, not including tusks and horns. No wood other than poles and smaller pieces of third class and unclassified trees shall be removed.
4. No gudem (Chenchu village) shall, without the special permission of the Collector, be allowed to keep a larger number of guns than that for which licenses had been taken out at the time of settlement. Every gun covered by a license shall be stamped with a distinctive mark or number. The use of poison and of explosives in water and the setting of cruives or fixed engines or snares for the capture or destruction of fish are strictly prohibited.
5. For purposes of regeneration, a portion of the area set apart for the grazing of cattle, not exceeding one-fifth, may be closed to grazing at any time and for such length of time as the District Forest officer deems fit.
6. The right of pre-emption of all minor forest produce collected by the Chenchus for sale or barter, shall be reserved to the Forest Department. The exercise of the right of collecting wood and other produce for domestic use, and of collecting minor produce for sale or barter, shall be confined to natural growth, and shall not include forest produce which is the result of special plantation or protection on the part of the Forest Department.

Exd. Shaik Karim.

25 Copies.

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ned for signature.

atched in print.

MAIN G.O., No.
129

MENT N)

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT

ORDER OF GOVERNMENT

STATEMENT WITH DITO.

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