

L. A. Bill No. 38 of 1957.

**THE TRAVANCORE-COCHIN FOREST (AMENDMENT)
BILL, 1957**

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BILL

to amend the Travancore-Cochin Forest Act, 1951.

Preamble.—WHEREAS it is expedient to amend the Travancore-Cochin Forest Act, 1951, for the purposes hereinafter appearing ;

BE it enacted in the Eighth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Travancore-Cochin Forest (Amendment) Act, 1957.

(2) It shall come into force atonce.

2. *Amendment of Section 1.*—In Section 1 of the Travancore-Cochin Forest Act, 1951 (Act III of 1952) (hereinafter referred to as the principal Act), for sub-section (2), the following shall be substituted, namely :—

“(2) It extends to the whole of the State of Kerala excluding the Malabar District referred to in sub-section (2) of Section 5 of the States Reorganisation Act, 1956”.

3. *Amendment of Section 2.*—In Section 2 of the principal Act, for clause (e), the following clause shall be substituted, namely :—

“(e) “Forest Produce” includes the following when found in, or brought from, a forest, that is to say—

(i) trees and leaves, flowers and fruits and all other parts or produce of trees ;

(ii) plants not being trees (including grass, creepers, reeds and moss) and all other parts or produce of such plants ;

(iii) wild animals and skins, tusks, horns, bones, silk cocoons, honey and wax and all other parts or produce of animals ;

(iv) peat, surface oil, rock and minerals (including limestone and laterite), mineral oils and all produce of mines and minerals”.

4. *Omission of Chapter VIII.*—Chapter VIII of the principal Act shall be omitted.

5. *Amendment of Section 93.*—In sub-section (2) of Section 93 of the principal Act—

(i) in clause (d), the words “belonging to or” occurring between the words “but grown on lands” and “in the occupation of private persons” shall be omitted ;

(ii) after clause (d), the following new clause shall be inserted, namely:—

“(dd) to regulate or prohibit the felling, lopping, cutting, maiming or otherwise maltreating of trees standing on land temporarily or permanently assigned, the right of the Government over which has been expressly reserved in the Deed or Grant or assignment of such land”.

6. *Amendment of Section 99.*—In Section 99 of the principal Act, the words “other than royalties” occurring between the words “timber” and “found” shall be omitted.

7. *Saving of operation of Sections 55 to 65.*—The repeal of Section 55 to 65 of the principal Act shall not affect the operation of the said sections, as respects—

(i) the rights of the Government over trees which are royalties and which have been felled before the commencement of this Act;

(ii) the preferring of claims to Kudivila in pursuance of a notice under Section 55 issued before the commencement of this Act;

(iii) the inquiry into claims for kudivila preferred either before or after the commencement of this Act; and

(iv) the powers of the Forest Officer, the District Court or the High Court to pass awards or to modify or reverse such awards on reference or on appeal; and any such rights, claims, inquiries, and powers may be enforced, preferred, conducted or exercised as if the said sections have not been repealed.

STATEMENT OF OBJECTS AND REASONS.

Chapter VIII of the Travancore-Cochin Forest Act, 1951, which is in force in the Travancore area of the State only, provides for the Government monopoly over royalties. The policy of the Government has been to abolish the Government monopoly over royalties standing in private holdings. For this the whole of Travancore was divided into three tracts. Government's rights over royalties in tracts I and II have been abolished by Proclamations dated 11-1-1936 and 25-8-1941. It is considered necessary to abolish the right of Government over royalties in Tract III area also. The Bill seeks to achieve this purpose.

K. C. GEORGE.

**Extracts from the Travancore-Cochin Forest Act,
1951, (Act III of 1952).**

1. *Short title, extent and commencement.*—(1) This Act may be called the Travancore-Cochin Forest Act, 1951.

(2) Chapter VIII shall apply only to Travancore and the rest of the Act shall apply to the whole of the State of Travancore-Cochin.

(3) It shall come into force at once.

2. *Definitions.*—In this Act and in all rules made, thereunder, unless there is anything repugnant in the subject or context,—

(e) "Forest produce" includes—

"Forest Produce"—(1) the following whether found in, or brought from, a forest or not, that is to say—timber or trees which are specified to be royalties under Section 52;

(2) the following when found in, or brought from, a forest, that is to say—

(i) trees and leaves, flowers and fruits and all other parts or produce not hereinbefore mentioned of trees;

(ii) plants not being trees (including grass, creepers, reeds and moss) and all other parts or produce of such plants;

(iii) wild animals and skins, tusks, horns, bones, silk cocoons, honey and wax and all other parts or produce of animals;

(iv) peat, surface oil, rock and minerals (including limestone and laterite), mineral oils and all produce of mines and minerals.

Explanation.—Timber for the purpose of sub-clause (1) of Section 2(e) above, does not include any wood that has been wrought or fashioned such as doors, windows, articles of furniture and boxes;

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CHAPTER VIII.

Of Royalties.

52. *Royalties.*—(1) Trees of the following species, that is to say, teak, blackwood, ebony and sandalwood and also ivory and teeth of elephants, whether grown or found on Government land or private property, are royalties and no trade shall be carried on in them unless they have been duly obtained from the Government.

(2) The trees mentioned in sub-section (1) shall not be felled by any person without the written permission of the Chief Conservator of Forests or such other officer as may be authorised by him in writing, but the owner of any property on which a teak, blackwood, ebony or sandalwood tree is standing, may

after obtaining the written permission of the Chief Conservator of Forests or other officer authorised by him as aforesaid, and on such terms as the Government may determine, fell any such tree for his private use, and when any such tree is removed from such property on account of the Government, the owner shall be entitled to a payment (hereinafter referred to in this Chapter as Kudivila) at rates which the Government may from time to time determine.

Exception.—This section shall not apply to trees in places where royalty in trees has been abolished by Proclamations (Travancore) dated the 11th January 1936 and the 25th August 1941.

53. *Notice of proposal to cut and remove royalty trees.*—When it is proposed to cut and remove any royalty trees from private lands by Government agency, notice in the prescribed form shall be given to the registered holder of the land from which the trees are proposed to be cut and removed. Such notice may be sent by registered post to the registered holder of the land and shall also be posted in the Pakuthi or Village and Taluk offices.

54. *Joint mahazar to be prepared before removal of the trees.*—Before any such trees are removed, a joint mahazar shall be prepared in the prescribed form by a Forest Officer not below the rank of a Forester in conjunction with the local Proverthicar, and whenever possible in the presence of the owner of the land or his authorised agent who shall also attest the mahazar. Notice as to when the trees are proposed to be removed and when the joint mahazar is proposed to be prepared shall be given to the registered holder of the land. Such notice may be sent by registered post.

55. *Notice calling claims for Kudivila.*—After the preparation of the joint mahazar referred to in the preceding section, another notice in the prescribed form shall be published by posting in the Pakuthi or Village and Taluk Offices and on some conspicuous part of the land from which the trees are cut, calling upon all claimants to prefer their claims to Kudivila within ninety days from the date of publication of such notice to the Forest Officer empowered for the purpose and to produce all documents and other evidence in support of their claims.

56. *Inquiry by Forest Officer into claims for Kudivila.*—(1) When a claim has been preferred as required by Section 55, the Forest Officer empowered in that behalf shall inquire into such claim, recording all statements and the evidence in the manner prescribed by the Code of Civil Procedure, 1908 in appealable cases.

(2) When no such claim has been preferred as required in Section 55, the inquiry shall be conducted *ex parte*.

(3) For the purpose of such inquiry, the Forest Officer aforesaid may exercise all the powers of a Civil Court in the trial of suits.

57. *Award to be made after inquiry.*—(1) On the completion of the inquiry, by the Forest Officer under Section 56, he shall make an award under his hand of—

- (a) the Kudivila which in his opinion shall be allowed and
- (b) the apportionment of the Kudivila so allowed among all the persons interested in the land of whom or of whose claims there is evidence whether they have appeared before him or not.

(2) Award to be filed and notice to be given. The award shall be filed in the office of the Forest Officer and shall be final except as hereinafter provided. Notice of the award shall forthwith be given to all the parties who are interested.

58. *Reference to Court.*—(1) Any party to the inquiry who is aggrieved by the award may, by written application to the Forest Officer making such award, require that the matter be referred to the District Court, within whose jurisdiction the land is situate, whether his objection be to the amount of the Kudivila, the person to whom it is payable, or the apportionment of the Kudivila, and the Forest Officer shall refer the application to the District Court within sixty days of the date of the application.

(2) The application shall state the grounds on which objection to the award is taken and shall be made within sixty days of the date of the receipt of the notice of the award.

(3) If on account of the complicated nature of the claim or for other reason, the Forest Officer is of opinion that a reference has to be made to the District Court he may himself refer the matter to be decided by the District Court within whose jurisdiction the lands are situate.

59. *Forest Officer's statement to the Court.*—In making the reference, the Forest Officer shall state, for the information of the District Court, in writing under his hand,—

- (a) the extent and situation of the land, with particulars of the trees cut and removed;
- (b) the names of the persons whom he has reason to think are interested in such land;
- (c) the amount of Kudivila; and
- (d) if the objection be as to the amount of Kudivila, the grounds on which it was determined.

To the said statement shall be attached a schedule giving the particulars of the notice served upon, and of the statements in writing made or delivered by the parties interested and the evidence adduced by them.

60. *Service of notice.*—The District Court shall thereupon cause a notice specifying the day on which the Court shall proceed to determine the objection and directing their appearance before the Court on that day, to be served on the following persons, namely:—

- (a) the applicant,
- (b) all persons interested in the inquiry, and
- (c) the Government.

61. *Scope of the inquiry.*—The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected and every such proceeding shall be taken in open Court.

62. *Form of award by Court.*—Every award made by the Court shall be in writing, signed by the Judge, and shall specify the amount of the Kudivila awarded and the respective persons to whom it shall be payable. Against the award made by the District Court, an appeal shall lie to the High Court.

63. *Tendering payment.*—On making an award under Section 57, the Forest Officer shall tender payment of the Kudivila awarded by him to the persons entitled thereto according to the award, and shall pay it to them, unless they refuse to receive it, or there is any dispute as to the title to receive the Kudivila or as to the apportionment thereof.

64. *Forest Officer to carry out the Court's awards as his own.*—If the award made by the Forest Officer is reversed or modified either by the District Court or by the High Court, the Forest Officer shall proceed to deal with it in like manner as if it had been in the first instance made by himself.

65. *Bar of claims to Kudivila.*—No claims to Kudivila preferred after three years from the date of publication of the notice mentioned in Section 55 shall be admitted by the Forest Officer nor shall any such claims be entertained in a Court of law except for reference under Section 58.

66. *Claims for Kudivila in respect of trees already cut.*—The provisions of Sections 53 to 65 shall not apply to claims for Kudivila in respect of trees cut before the 22nd December 1948:

Provided, nevertheless, that all claims which have not been preferred in respect of trees cut before that date shall be preferred within one year from the commencement of this Act and no suit, claim or other proceeding preferred after the said period shall be entertained by a Forest Officer or any Court of law.

67. *Rules to be made by Government.*—The Government may make rules for regulating or prohibiting the felling, lopping, cutting, maiming, or otherwise maltreating of any tree which is a royalty or any other tree standing on land temporarily or permanently assigned, the right of the Government over which has been expressly reserved in the deed of grant or assignment of such land.

68. *Punishment for felling, etc. trees which are royalties.*
Whoever—

(a) fells, girdles, lops, marks, mutilates, or otherwise damages any tree which is a royalty, against the rules made by the Government, or

(b) fells such trees in places other than those for which he has obtained permission from a Forest Officer or in quantities larger than, or different in kind from, those so permitted, or

(c) is found in possession of such trees, or of any forest produce which is a royalty without having honestly obtained it, shall, on conviction by a Magistrate, be liable to imprisonment which may extend to six months, or to fine which may extend to five hundred rupees, or to both.

In cases where the offence is committed after sunset and before sunrise, or after making preparation for resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the convicting Magistrate may inflict double the penalty prescribed for such offence.

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CHAPTER XII.

Miscellaneous.

93. *Additional power to make rules.*—(1) (a) The Government may make rules for the protection, advancement, treatment and management of hill tribes.

(b) The rules made under clause (a) shall be laid for not less than seven days before the Legislative Assembly as soon as possible after they are made and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid.

(2) The Government may make rules consistent with this Act;

(a) to declare by what Forest Officer or class of Forest Officers the powers and duties conferred or imposed by or under this Act on a Forest Officer shall be exercised or performed;

(b) to regulate the procedure of Forest Settlement Officers;

(c) to regulate the rewards, to be paid to officers and informers from the proceeds of fines and confiscations under this Act or from the Public Treasury ;

(d) for the preservation, reproduction and disposal of trees and timber belonging to the Government, but grown on lands belonging to, or in the occupation of private persons; and

(e) generally to carry out the provisions of this Act.

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99. *Trees and timber standing on land granted for permanent cultivation.*—All trees and timber, other than royalties found on land at the disposal of the Government which may hereafter be granted for permanent cultivation under such rules as may be in force at the time shall be held to be the property of the Government; such trees shall, on the application of the grantee, be removed by the Forest Department within 18 months from the date of receipt of such application; if not so removed such trees and timber shall become the property of the land owner on payment by him of the current seigniorage value thereof.