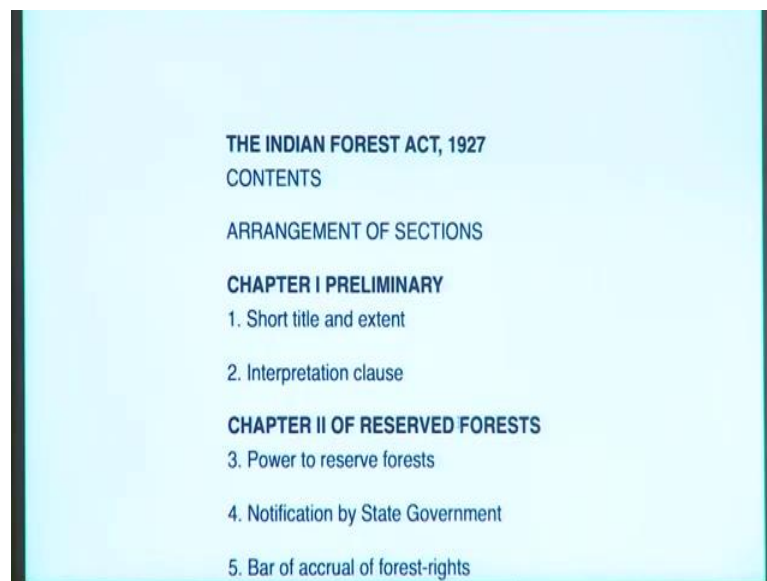


**Forests and Their Management**  
**Dr. Ankur Awadhiya**  
**Department of Biotechnology**  
**Indian Institute of Technology, Kanpur**

**Module – 06**  
**Forest Protection**  
**Lecture – 18**  
**Forest law**

[FL]. Any discussion of Forest Protection is incomplete without Forest Law. Forest law is something that gives us the strength to protect the forest and, in our country, we have three major laws – the Indian Forest Act 1927, the Wildlife Protection Act 1972 and the Forest Conservation Act 1980, that provide us with the strength to protect the forest. And, in today's lecture, we will have a look at all three of these Acts and the major provisions that they have for the protection of forests.

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**THE INDIAN FOREST ACT, 1927**  
CONTENTS  
ARRANGEMENT OF SECTIONS  
**CHAPTER I PRELIMINARY**  
1. Short title and extent  
2. Interpretation clause  
**CHAPTER II OF RESERVED FORESTS**  
3. Power to reserve forests  
4. Notification by State Government  
5. Bar of accrual of forest-rights

So, let us now begin with the Indian Forest Act, 1927.

(Refer Slide Time: 00:51)

21 Sept 1927

Preamble is the soul of any act: TP Narayan v Uoi 1970  
SC: Preamble is the key to open the mind of the legislature

Preamble to clear meaning: Rashtriya Mill Mazdoor Sangh v NTC Ltd. 1996 SC

## THE INDIAN FOREST ACT, 1927

(16 of 1927)

**An Act to consolidate the law** relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce.

Whereas it is expedient to consolidate the law relating to forests, the transit of forest produce and the duty leviable on timber and other forest-produce; it is hereby enacted a follows:

### CHAPTER I PRELIMINARY

**1. Short title and extent.**(1) This Act may be called the Indian Forest Act, 1921  
1{(2) It extends to the whole of India except the territories

To understand any act, we have to go to the preamble of this act. So, this Act is Act 16 of 1927 – “An Act to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce.” So, what is the purpose of this act? This Act is to consolidate the provisions that we have relating to forest, transit of forest-produce and the duty leviable on timber and other forest-produce.

So, essentially when this Act was made it was in India was under the control of the Britishers, and this Act was made with a purpose to reserve certain forest; to reserve certain forest produce, for the convent. “Whereas it is expedient to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce; it is hereby enacted as follows.”

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**CHAPTER I PRELIMINARY**

**1. Short title and extent.**(1) This Act may be called the Indian Forest Act, 1921  
1[(2) It extends to the whole of India except the territories which, immediately before the 1st November, 1956, were comprised in Part B States.  
(3) It applies to the territories which, immediately before the 1st November, 1956, were comprised in the States of Bihar, Bombay, Coorg, Delhi, Madhya Pradesh, Orissa, Punjab, Uttar Pradesh and West Bengal; but the Government of any State may by notification in Official Gazette bring this Act into force<sup>2</sup> in the whole or any specified part of that State which this Act extends and where it is not in force.]

**2. Interpretation clause.**In this Act, unless there is anything repugnant in the subject or context  
(1) "**cattle**" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules.

Plantation watcher is a forest officer: Abdul Aziz v Tripura 1963

So, what are the major provisions that we have in this act?

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**2. Interpretation clause.**In this Act, unless there is anything repugnant in the subject or context  
(1) "**cattle**" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids;  
(2) "**Forest-officer**" means, any person whom <sup>3</sup> [ \* \* ] the State Government or any office empowered by <sup>3</sup> [ \* \* ] the State Government in this behalf, may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a Forest-officer;

Plantation watcher is a forest officer: Abdul Aziz v Tripura 1963

So, we have we begin with the short title and extent followed by the interpretation clause. Now, Section 2 of a number of Act gives you the definitions of different terms that are used in the act. So, in this case, we can see that what is a forest-officer? Any person whom the State Government or any office empowered by the State Government in this behalf may appoint to carry out all or any of the provisions of this Act is a forest-officer.

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Fish is a forest produce:  
State v DJ Bijnor 1981 SC

Bamboo mat is not a forest  
produce: Mahadev v  
Maharashtra 2001 SC

Factory made kaththa is  
forest produce: M/s Indian  
wood products v UP 1999  
SC

Dung excreted by domestic  
cattle inside forest is not a  
forest produce: Barkat v  
State 1987 MP

Quicklime is forest  
produce: M/s Indian wood  
products v UP 1999 SC

Forest and forest land

(3) "forest-offence" means an offence punishable under this Act or under any rule made thereunder;

(4) "forest-produce" includes

(a) the following whether found in, or brought from, a forest or not, that is to say timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds, 4[kuth] and myrabolams, and

(b) 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 herein before mentioned, of trees,

(ii) plants not being trees (including grass, creepers, reeds and moss), and all 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, and

What is the forest-offense? So, when we talk about protection, we have to talk about the forest-offense. A forest-offense is defined as an offense that is punishable under this act, or any or under any rule that is made they are under that is under this act. So, if there is an offense that is punishable under this act, you will call it a forest-offense. What is the forest-produce?

So, it categorizes different categories of forest-produce the following whether found in a forest or brought for from a forest or not. So, when we say or not what this act is saying is that, whether it is these things are found in a forest or whether these are not found in the forest; whether these are brought from the forest or whether these are brought from any other place, will if we have these items we will call them a forest-produce and what are these? Timber, charcoal, catechu, wood-oil, resin, natural varnish and so on. So, if you find these items anywhere, it is a forest-produce and the act is applicable on these.

But, in these things the following when found in a forest; so, if these if this lists the items that are in this list, if they are found in the forest or if they are brought from a forest only then, we will call them a forest-produce. But if these are brought from any other area, if you are growing them in your house and you are able to prove that, then this is not a forest produce.

(Refer Slide Time: 04:03)

wood products v UP 1999 SC

Dung excreted by domestic cattle inside forest is not a forest produce: Barkat v State 1987 MP

Quicklime is forest produce: M/s Indian wood products v UP 1999 SC

Forest and forest land defined by SC in WP 202 / 95:

Forest: dictionary sense:  
1. large area covered with trees and undergrowth  
2. trees growing in it.

Forest land = forest + area recorded as forest in govt record irrespective of ownership

**forest, that is to say**

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

(ii) plants not being trees (including grass, creepers, reeds and moss), and all 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, and

(iv) peat, surface soil, rock and minerals (including lime-stone, laterite, mineral oils, and all products of mines or quarries);

5[(4A) "owner" includes a Court of Wards in respect of property under the superintendence or charge of such Court;]

(5) "river" includes any stream, canal, creek or other channels, natural or artificial;

(6) "timber" includes trees, when they have fallen or have been felled, and all wood whether cut up or

And, what does this list contain?

Trees and leaves, flowers and fruits and all other parts or produce not herein before mentioned, of trees,

Plants that are not trees; including grasses, creepers, reeds and moss, all parts or produce of such plants,

Wild animals and skins, tusks, horn, bones, silk cocoon, honey, wax and other things,

Peat, surface soil, rocks, minerals and so on.

So, these are a forest-produce only when these are either found in the forest or are these or these are being brought from the forest.

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Forest: dictionary sense:  
1. large area covered with trees and undergrowth  
2. trees growing in it.

Forest land = forest + area recorded as forest in govt record irrespective of ownership

Under Kyoto protocol:  
Area  $\geq$  0.05 Ha, Tree crown cover  $\geq$  15%, Tree height  $\geq$  2m

mines or quarries);

5[(4A) "owner" includes a Court of Wards in respect of property under the superintendence or charge of such Court;]

(5) "river" includes any stream, canal, creek or other channels, natural or artificial;

(6) "timber" includes trees, when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not; and

(7) "tree" includes palms, bamboos, skumps, brush-wood and canes.

**CHAPTER II OF RESERVED FORESTS**

3. Power to reserve forests. The State Government may 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

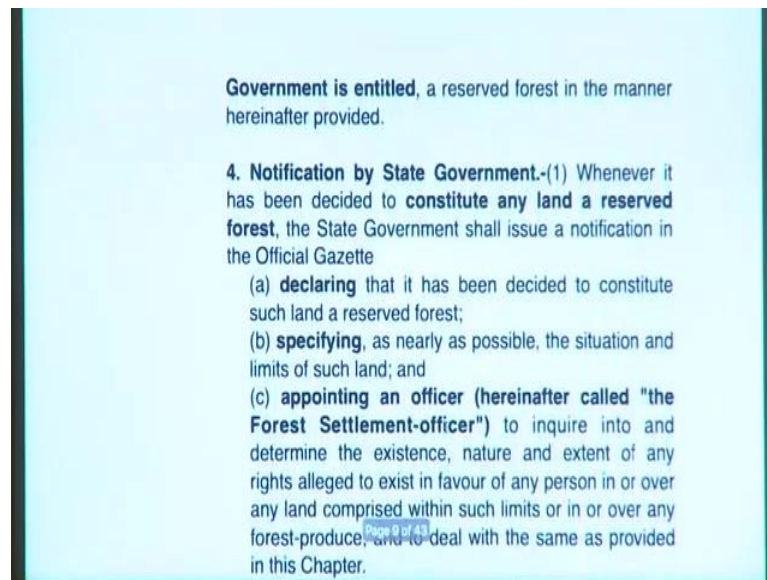
State govt cannot declare private land as RF.

Now, what is tree? What is timber? Now, timber is defined as trees when they have fallen or have been felled, and all the wood whether it is cut up or fashioned or hollowed out for any purpose or not; which means that timber is all sorts of trees and all sorts of materials that are that have been derived from these trees; whether they have been processed or not, we will call them as timber. What is the tree? Now, tree includes palm, bamboos, skumps, brush-wood, canes. Now, later on within amendment bamboos was brought out of this list. So, bamboo is now no longer considered to be a tree.

Now, what are the powers of the government? The government has a power to reserve a forest.



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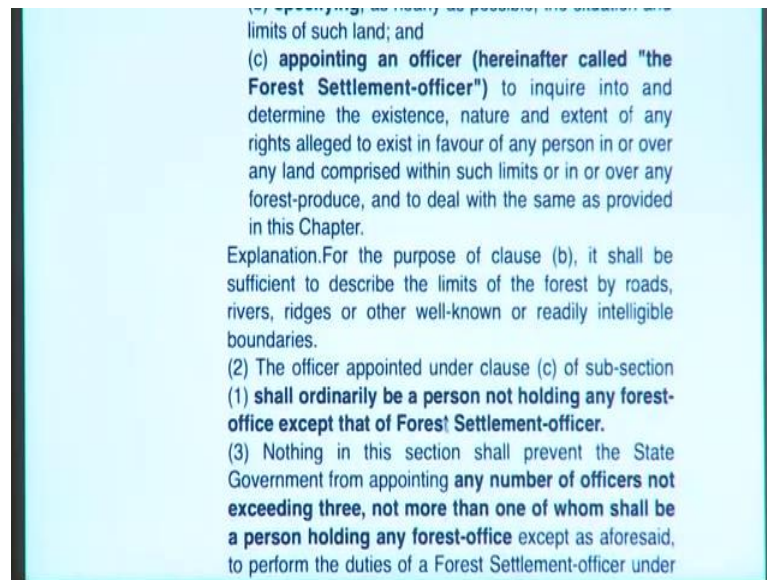


So, the government can reserve a forest, and what is the process and what kinds of lands can be reserved? The State Government may constitute any forest-land. Now, this any forest land is something that you have defined in the Godavarman case that the Supreme Court has defined in the Godavarman case. So, a forest land includes all lands that have forests or all lands that have been described as a forest in some document.

So, the State Government may constitute any forest-land or waste-land, which is the property of the government, or over which the government has proprietary rights; that is rights over the property, or to the whole or any part of the forest-produce of which the government is entitled, a reserve forest in the manner hereinafter provided.

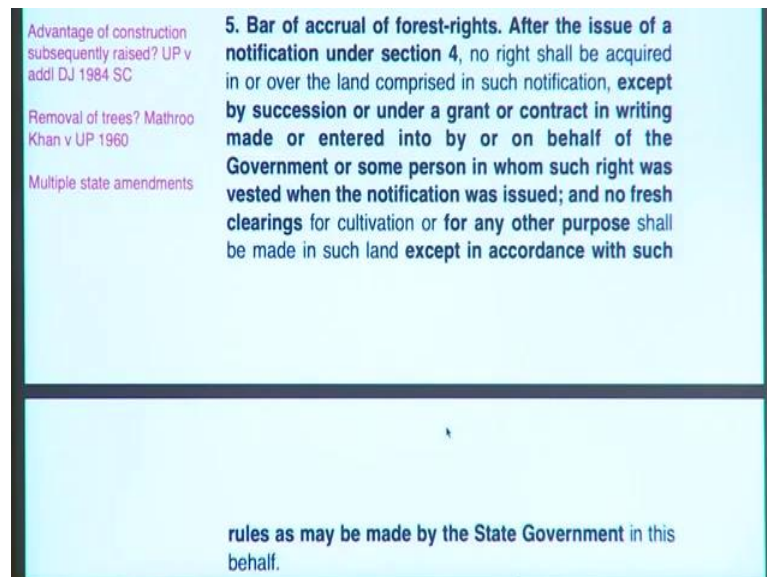
So, what kinds of lands can be made into a reserved forest? You can make any forest land into a reserved forest, or any waste-land into a forest into a reserved forest, or any land that over proprietary rights to the whole or to the part of the forest produce. So, if you have any forest-land or any wasteland which is the government property, you can directly convert it into a reserved forest.

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The process is given in the later article, in the later sections. You have a notification by the state government; you declare which are the areas that are going to be constituted into the reserve forest; you specify the limits of this land; you appoint a forest settlement officer.

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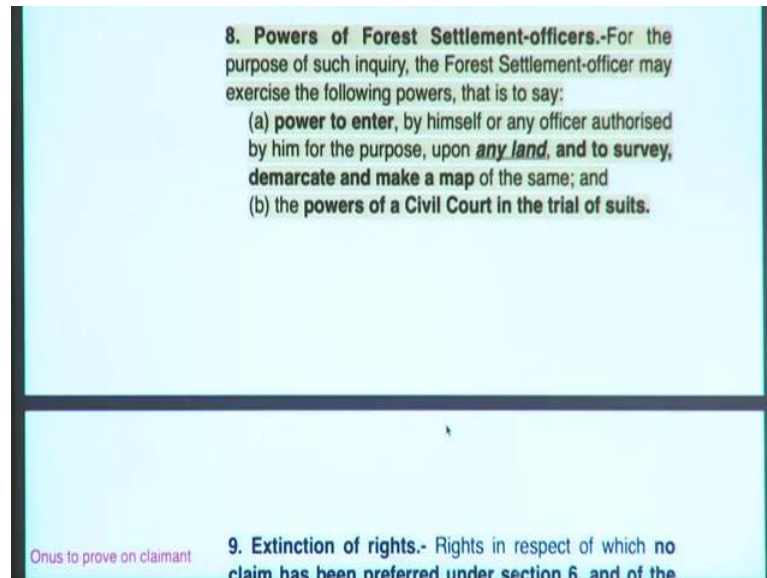
Then, there is a bar on accrual of forest right. So, once you have issued a notification under Section 4, no rights shall be acquired in or over the land comprised in such



notification, except by succession or under a grant or contract in writing made or entered into by or on behalf of the government and so on.

Then, there is Proclamation and Inquiry.

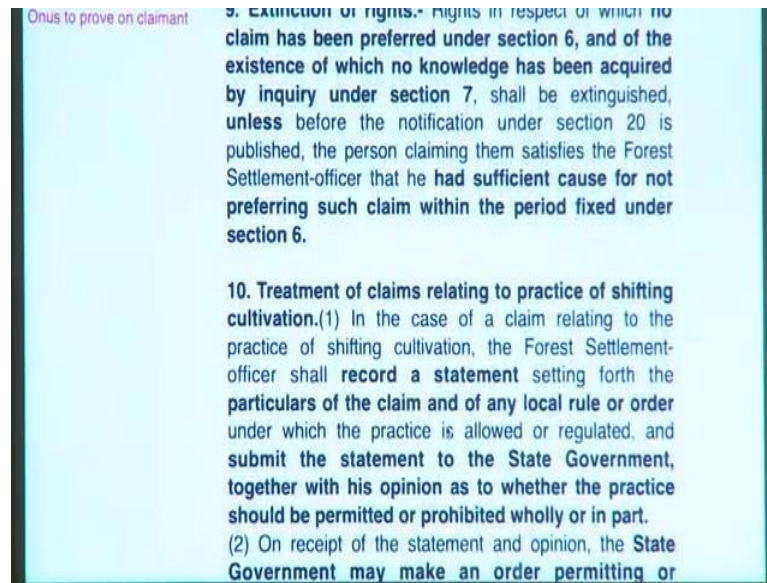
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Next, you have the powers of the forest settlement-officers, now this is important. Now, if you have a forest settlement-officer; what this forest settlement knowing is that once the government has come up with a notification that we are going to constitute these lands into a reserved forest, then this forest officer is going to make a note of who all are living in this area, who all are having rights in this area, and then is going to process these rights as this provided in the act.

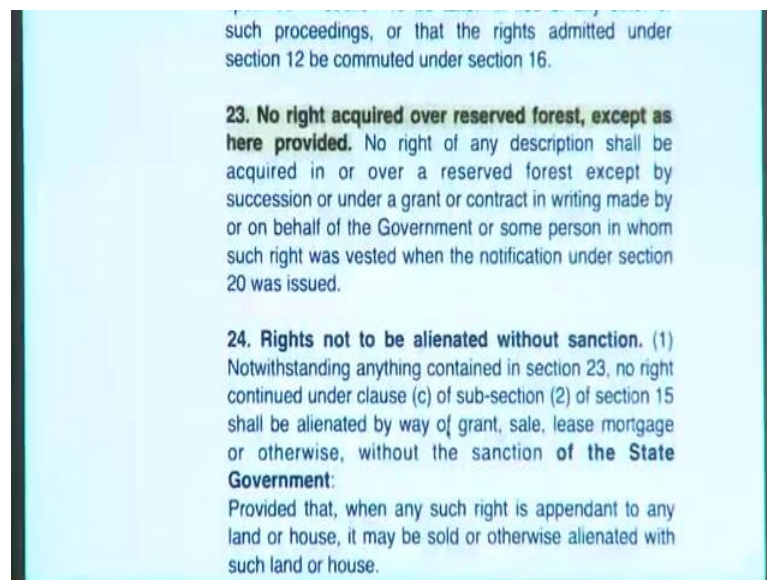
So, to note down these rights and to process these rights, the forest settlement-officer is given certain powers. For the purpose of such inquiry, the forest settlement-officer may exercise the following powers that is to say, power to enter, by himself or any officer authorized by him for the purpose, upon any land; so, he can get inside any land, he can survey, demarcate or make a map of any land; and, he has the powers of a civil court in the trial of suits.

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Then, there is an extinction clause that certain rights will be extinguished using under certain circumstances, then a record will be made and so on.

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Now, let us move into the other clauses of protection. Once the government has declared a land as the reserved forest, no right shall be acquired over the reserved forest except as here provided. So, once you have made this land into a reserved forest, now no rights can be acquired, except as under provided in this act.

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Art 265 Constitution of India: No tax shall be levied or collected except by authority of law.

Anand Transport Co. v DFO, South Raipur 1959 MP:

1. Forest roads are not public highways
2. Dept can regulate use of roads
3. Imposition of reasonable fee for use of forest road is legal and does not contravene Art 265.

A person cannot be said to set fire to a thing if it catches fire as an indirect consequence of his acts.

extent as may have been admitted in the order recorded under section 14.

**25. Power to stop ways and water-courses in reserved forests.** The Forest-officer may, with the previous sanction of the State Government or of any officer duly authorised by it in this 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 State Government deems to be reasonably convenient, already exists, or has been provided or constructed by the Forest-officer in lieu thereof.

**26. Acts prohibited in such forests.**(1) Any person who

- (a) makes any fresh clearing prohibited by section 5, or
- (b) sets fire to a reserved forest, or, in contravention of any rules made by the State Government in this behalf, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest; or who, in a reserved forest

Now, in this area there; Section 25 says “power to stop ways and watercourses in the reserve forest. The forest officer may with the previous sanction of the State Government or any or of any officer duly authorized by it in this behalf, stop any public or private way or water-course in a reserved forest, provided that a substitute for the way of water-course so stopped, which the State Government deems to be reasonably convenient, already exists, or has been provided or constructed by the forest officer in lieu thereof.”

So, now what we are saying is that the forest settlement-officer has the power to stop any way - that is to stop any road or to stop any waterway provided that an alternative is provided to the people. So, this is another power of the forest settlement-officer.

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contravene ART 265.

A person cannot be said to set fire to a thing if it catches fire as an indirect consequence of his acts.

If servant takes some other cattle as well, is the master guilty?  
Saiyyad Rahim v Emperor AIR 1915. A licensee under the act would be liable criminally for every act of his agent done in carrying out the business delegated to him if there is a breach of condition of licence.

**26. Acts prohibited in such forests.**(1) Any person who

- (a) makes any **fresh clearing** prohibited by section 5, or
- (b) **sets fire** to a reserved forest, or, in contravention of any rules made by the State Government in this behalf, **kindles any fire, or leaves any fire burning**, in such manner as to endanger such a forest;  
**or who, in a reserved forest**
- (c) **kindles, keeps or carries any fire except at such seasons as the Forest-officer may 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, or bums any **tree** or strips off the bark or leaves from, or otherwise **damages**, the same;
- (g) **quarries** stone, bums lime or charcoal, or **collects**, subjects to any manufacturing process, or **removes**, any forest-produce;

Next, we have acts that are prohibited in such forest; so, acts that are prohibited in the reserved forest, what are the acts?

“Any person who makes a fresh clearing prohibited by Section 5,” or

“sets fire to a reserved forest, or in contravention of any rules made by the State Government in this behalf, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest.”

So, what we are saying is that, in different areas in areas that are there in Section 5 or those that have been declared as a reserved forest, there are different things that are now prohibited. Making of a fresh clearing is prohibited; setting of a fire is prohibited; kindling of any fire leaving; any fire burning is prohibited or who in a reserved forest kindles keeps or carries any fire, except as such seasons as the forest officer may notify.

So, now in the case of a reserved forest, people may not even keep or carry any fire which means that, if you are entering into this these reserved forest, you have to be extra careful because these are now reserved, or

“trespasses or pastures cattle, or permits cattle to trespass” – you cannot permit your cattle to enter into a reserved forest, or

“causes any damage by negligence in felling any tree or cutting or dragging any timber” – you cannot damage these trees, or

“fells, girdles, lops, or burns any tree or strips of the bark or leaves from, or otherwise damages the same;” all of these are prohibited.

(Refer Slide Time: 11:57)

guilty  
Saiyyad Rahim v Emperor  
AIR 1915: A licensee under the act would be liable criminally for every act of his agent done in carrying out the business delegated to him if there is a breach of condition of licence.

(e) causes any **damage by negligence** in felling any tree or cutting or dragging any timber;  
(f) **fells, girdles, lops, 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;**

Some timber was seized from a person on the presumption that timber belong to Govt. He could not explain that the timber belongs to him. Guilty or not?  
Failure of accused to explain satisfactorily his possession of the timber does not relieve the prosecution of the burden to prove that these constituted government property and had been illegally felled.  
-Sidheshwar Panda Vs. The State, A.I.R. 1954 Orissa

Or “quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce.”

(Refer Slide Time: 12:05)

Imprisonment, fine and compensation  
(6 months + / ₹ 500) + compensation

Fine v compensation:  
1. punishment v damages  
2. cash v cash / kind  
3. max limited v no limit  
4. to govt v to injured party  
5. simple / rigorous  
imprisonment in default

(h) **clears or breaks up any land for cultivation or any other purpose;**  
(i) in contravention of any rules made in this behalf by the State Government **hunts, shoots, fishes, poisons water or sets traps or snares; or**  
(j) in any area in which the Elephants Preservation Act, 1879 (6 of 1879), is not in force, **kills or catches elephants** in contravention of any rules so made, shall be **punishable with imprisonment for a term which may extend to six months, or with fine which may extend to 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.**

(2) 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 state Government; or**



Or, “clears or breaks up any land for cultivation or for any other purpose.” So, breaking up of land is prohibited.

“In contravention of any rules made in this behalf by the State Government - hunts, shoots, fishes, poisons water or sets traps or snares;” that is also prohibited.

Or, “in an area in which the Elephant Preservation Act 1879, is not in force, kills or catches elephants in contravention of any rules so made, shall be punishable with imprisonment for a term which may extend to six months, or with a fine which may extend to 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.” So, all of these activities are forest offenses under this act.

(Refer Slide Time: 12:58)

Only RF can be made into VF.

Difference between RF and VF:

1. constitution
2. management
3. ownership and possession
4. status
5. revenue realised

### CHAPTER III OF VILLAGE-FORESTS

**28. Formation of village-forests.**-(1) The State Government may 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.

(2) The State Government may 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.

(3) All the provisions of this Act relating to reserved forests shall (so far as they are not inconsistent with the rules so made) apply to village-forests.

### CHAPTER IV OF PROTECTED FORESTS

Next, the government can also make village forest under Section 28. The State Government may make rules for regulating the management of village forest.

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**CHAPTER IV OF PROTECTED FORESTS**

**Need and arrangement:**

1. general and inexpensive demarcation of boundary
2. prohibiting conversion to cultivated land
3. reserving a limited class of valuable tree
4. periodically closing areas requiring so
5. simple rules to protect abusive acts

Any forest-land or waste-land that is not RF

**Settling of rights:**

1. no elaborate inquiry
2. correct until proved wrong
3. declaration need not wait till rights are settled

**29. Protected forests.**(1) The State Government may, by notification in the 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.

(2) The forest-land and waste-lands comprised in any such notification shall be called a "protected forest".

(3) 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 therein have been inquired into and recorded at a survey or settlement, or in such other manner as the State Government thinks sufficient. Every such record shall be presumed to be correct until the contrary is proved:

Or the government can declare protected forest under Section 29. So, what is the difference between a protected forest and a and a reserved forest?

A protected forest is typically a very quick action in which the government says that these forests will be protected; and then they become protected forests. But in the case of a reserve forest, the process is very intricate. So, there is a forest settlement-officer who inquires into the rights of different people, settles those rights, extinguishes certain rights and then after the whole process is done, you have a reserved forest.

(Refer Slide Time: 13:46)

No effect if no notification issued

Power to prohibit certain acts

**30. Power to issue notification reserving trees, etc.** The State Government may, by notification in the Official Gazette,

- (a) declare any trees or class of trees in a protected forest to be reserved from a date fixed by, the notification;
- (b) declare that any portion of such forest specified in the notification shall be closed for such term, not exceeding thirty years, as the State Government thinks fit, and that the rights of private persons, if any, over such portion shall be suspended during such terms, provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the right suspended in the portion so closed; or
- (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

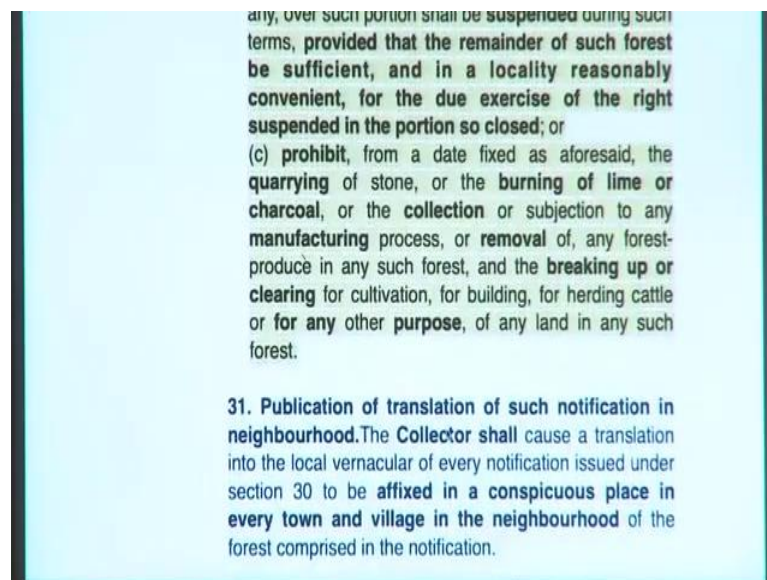
Now, the Government, under Section 30, has the power to issue notification reserving trees etcetera. The State Government may, by notification in the official gazette,

“declare any trees or class of trees in a protected forest to be reserved from a date fixed by, the notification.” So, the Government cannot only declare a forest as a protected forest; but inside a protected forest, the Government can also declare that certain trees or classes of trees are reserved.

Or, the government can “declare that any portion of such forest is specified in the notification shall be closed for such term, not exceeding thirty years, as the State Government thinks fit, and that the rights of private persons, if any, over such portion shall be suspended during such terms, provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the right suspended in the portion so closed.”

So, the government can reserved trees in a protected forest, or the government can say that a certain portion of the protected forest is now closed; when we say closed, it means it is closed for grazing; but the government will ensure that that the rights of the people are protected by providing certain alternatives.

(Refer Slide Time: 15:17)



Or the government can “prohibit, from a date fixed as aforesaid, the quarrying of stone, burning of lime or charcoal, or collection or subjection to any manufacturing

process, or removal of any forest-produce in any such forest, or the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, of any land in such forest.” So, even inside a protected forest, the Government can issue a notification that will say that these activities are also prohibited in the protected forest. So, they also become a forest-offense.

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**33. Penalties for acts in contravention of notification under section 30 or of rules under section 32.--(1) Any**

<p>Difference between RF and PF:</p> <ol style="list-style-type: none"> <li>1. RF can't become PF, but PF can become RF</li> <li>2. Notification after full settlement of rights in case of RF, but notification possible pending settlement of rights in PF</li> <li>3. FSO in case of RF, but not in case of PF</li> <li>4. No new rights can accrue in case of RF, but rights alleged to exist at the time of notification of PF will be allowed to continue u/s - 29(3)</li> <li>5. Restriction on alienation of rights in RF u/s 24, but no such restriction in case of PF</li> <li>6. Products can't be sold or bartered in case of RF u/s 14, no such restriction for PF</li> <li>7. Every act prohibited unless permitted for RF, every act permitted unless prohibited for PF</li> <li>8. Boundary well</li> </ol>	<p>9. Trespass is offence for RF, but not for PF - 10. Compensation as punishment for damage in case of RF, but not in case of PF</p> <p>person who commits any of the following offences, namely:</p> <ol style="list-style-type: none"> <li>(a) fells, girdles, lops, taps or bums any tree reserved under section 30, or strips off the bark or leaves from, or otherwise damages, any such tree;</li> <li>(b) contrary to any prohibition under section 30, quarries any stone, or bums any lime or charcoal or collects, subjects to any manufacturing process, or removes any forest-produce;</li> </ol>
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Next, we have Penalties. Penalties are given in Section 33. “Penalties for acts in contravention of notification under Section 30 or of rules under Section 32.”

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<p>settlement of rights in case of RF, but notification possible pending settlement of rights in PF</p> <ol style="list-style-type: none"> <li>3. FSO in case of RF, but not in case of PF</li> <li>4. No new rights can accrue in case of RF, but rights alleged to exist at the time of notification of PF will be allowed to continue u/s - 29(3)</li> <li>5. Restriction on alienation of rights in RF u/s 24, but no such restriction in case of PF</li> <li>6. Products can't be sold or bartered in case of RF u/s 14, no such restriction for PF</li> <li>7. Every act prohibited unless permitted for RF, every act permitted unless prohibited for PF</li> <li>8. Boundary well</li> </ol>	<p>person who commits any of the following offences, namely:</p> <ol style="list-style-type: none"> <li>(a) fells, girdles, lops, taps or bums any tree reserved under section 30, or strips off the bark or leaves from, or otherwise damages, any such tree;</li> <li>(b) contrary to any prohibition under section 30, quarries any stone, or bums any lime or charcoal or collects, subjects to any manufacturing process, or removes any forest-produce;</li> <li>(c) contrary to any prohibition under section 30, breaks up or clears for cultivation or any other purpose any land in any protected forest;</li> <li>(d) sets fire to such forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any tree reserved under section 30, whether standing fallen or felled, or to say closed portion of such forest;</li> <li>(e) leaves burning any fire kindled by him in the vicinity of any such tree or closed portion;</li> <li>(f) fells any tree or drags any timber so as to damage</li> </ol>
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Any person who commits any of the following offenses namely:

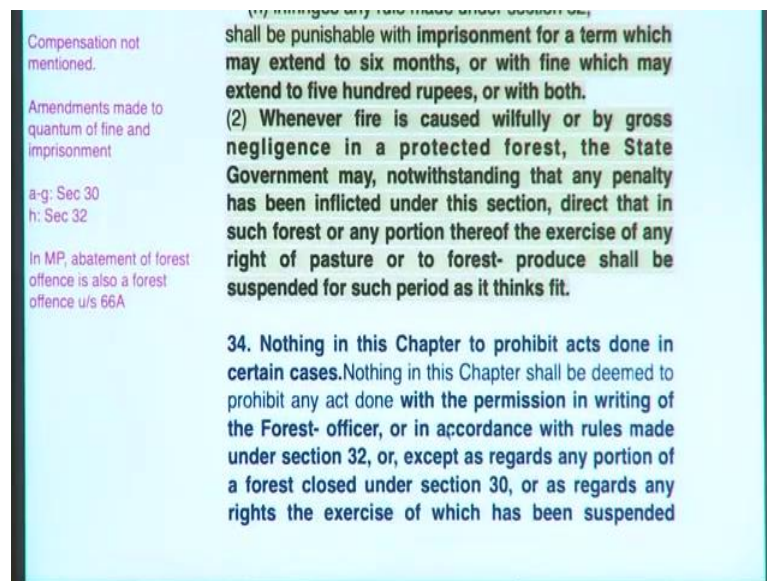
“fells, girdles, lops, taps or burns any tree reserved under Section 30, or strips off the bark or leaves from, or otherwise damages, any such tree.”

Or, “contrary to any prohibition under Section 30, quarries any stone, burns any lime or charcoals or collects, or subjects to any manufacturing process, or removes any forest-produce.”

Or, “contrary to any prohibition under Section 30, breaks up or clears for cultivation or any for any other purpose any land in any protected forest.”

Or, “sets fire to such forest, or kindles of a fire without taking all reasonable precautions to prevent its spreading to any tree reserved under Section 30, whether standing fallen or felled, or to say closed portion of such forest.”

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“Leaves any leaves burning any fire kindled by him in the vicinity of any such tree or closed portion”

Or, “fells any tree or drags any timber so as to damage any tree reserved as aforesaid”

Or, “permits cattle to damage any tree,” or “infringes any rule made under Section 32”



So, now all of these are also forest-offenses. And, the act now says that all these things “shall be punishable for with imprisonment for a term which may extend to six months, or with a fine which may extend to five hundred rupees, or with both.” So, all of these are also prohibited activities and penalties have been have been designated for these prohibited activities.

And, “whenever fire is caused wilfully or by gross negligence in a protected forest, the State Government may, not with withstanding that any penalty has been inflicted under this section, direct that in such forest or any portion thereof the exercise of any right of pasture or to forest-produce shall be suspended for such period as it thinks fit.”

So, essentially in the case of a reserved forest, all the rights are reserved for the Government. In the case of a protected forest, certain rights are left for the people; but then, if the people carry out any activity in which you have a fire that is caused either wilfully or because of gross negligence, then the government may suspend the rights of the people for grazing, collection of non-timber forest-produce and so on. So, thus act is making known to us what are the offenses; what are the forest-offenses, and what are the penalties for them.

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Private forests:

1. ownership remains unaffected
2. only few activities prohibited / regulated
3. no penalty for violations

**35. Protection of forests for special purposes.-(1)** The State Government may, by notification in the 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; or**

**(c) the firing or clearing of the vegetation;**

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

**(i) for protection against storms, winds, rolling stones, floods and avalanches;**

**(ii) for the preservation of the soil on the ridges and slopes and in the valleys of hilly tracts, the prevention of land slips or of the formation of ravines, and torrents, on the protection of land against erosion, or the deposit thereon of sand, stones or gravel;**

**(iii) for the maintenance of a water-supply in springs, rivers and tanks;**

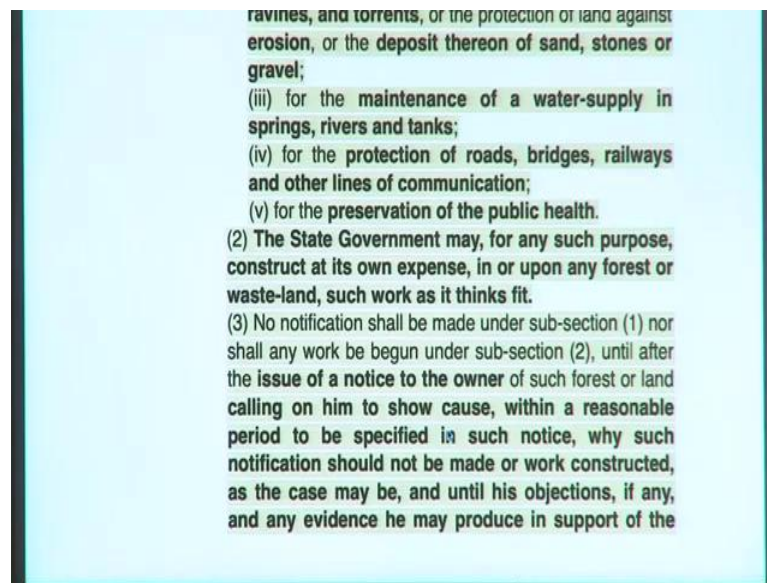
**(iv) for the protection of roads, bridges, railways**

Next that says Section 35, PROTECTION OF FOREST FOR SPECIAL PURPOSES. So, this is now again another power of the Government because of this act. “The State Government may, by notification in the official gazette, regulate or prohibit in any forest

or waste-land.” Now, remember that earlier we were talking about forest or waste-land that for the government property for the making of the reserved forest; but, now what we are saying is regulate or prohibit in any forest or waste-land.

“the breaking up or clearing of land for cultivation, pasturing of cattle, firing or clearing of vegetation,” when such regulation or prohibition appears necessary for the following purposes.

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Now, these purposes are public purposes.

Protection against storm, wind, rolling stones, floods, avalanches.

Preservation of soil on the ridges and slopes and in the valley of hill tracts, the prevention of land slips or of the formation of ravines, and torrents, or the protection of land against erosion, or deposit thereon of sand, stones and gravel.

For the maintenance of a water-supply in spring, rivers, tanks.

Protection of roads, bridges, railways and other lines of communication, or

For the preservation of public health.

Now, what we are saying here is that, because the forests are having a number of ecological functions that are providing us a number of direct and indirect benefits; so, for

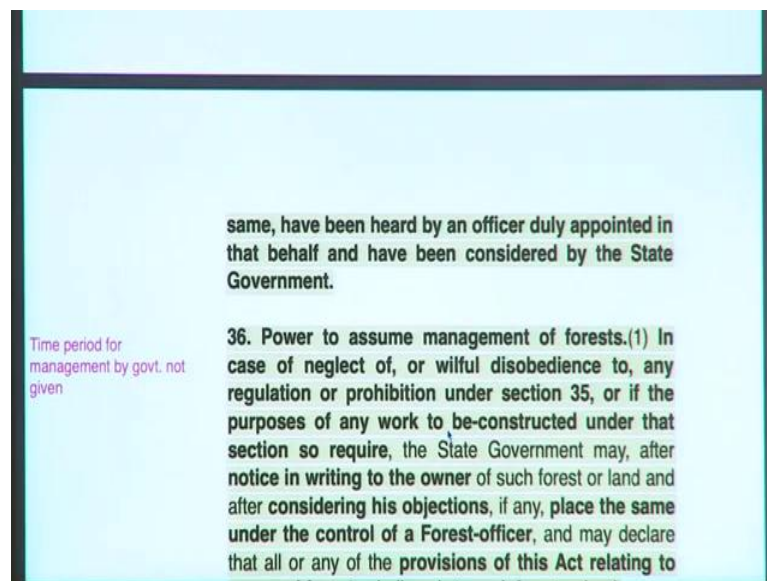
these benefits the government may say that. in any forest or in any waste-land, these activities are prohibited for these particular reasons.

So, this is now another power of the State Government.

“The State Government may, for such purpose, construct at its own expense, in or upon any forest or waste-land, such work as it thinks fit.” So, now, this section is giving power to the government to do certain activities, as it thinks fit for these purposes.

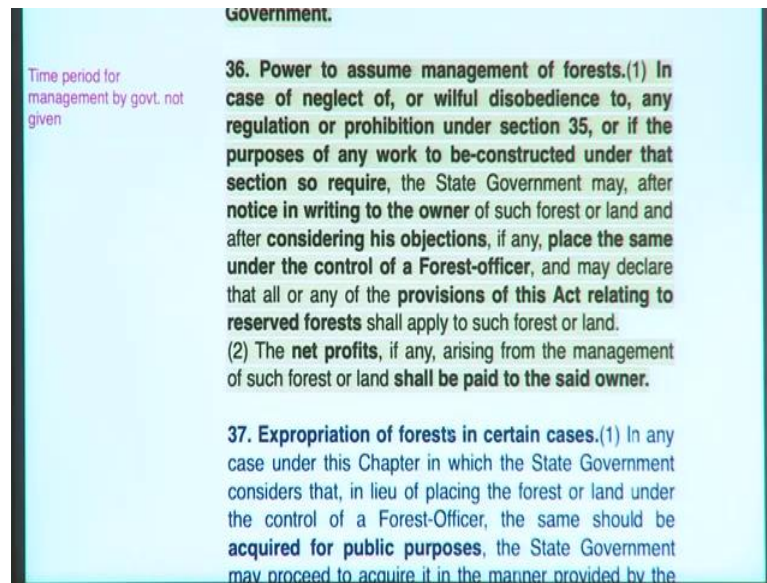
“No notification shall be made under sub-section 1 nor shall any work be begun under sub-section 2, until after the issue of a notice to the owner of such forest or land calling on him to show cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, as the case may be, 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 State Government.”

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So, now this subset this section is now also putting up the rider that, before any such notices any such order is issued, the person who is having the forest will be given a chance to show cause within a reasonable period of time that we are going to do this to your forest; and if you have any objections, you should show cause why you have these objections and why we should not do this.

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Now, under Section 36, the government has the “Power to assume the management of forest. In case of neglect of, or wilful disobedience to, any regulation or prohibition under Section 35, or if the purposes of any work to be-constructed under there that sections who require, the State 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 that all or any or of the provisions of this Act relating to reserved forest; now, when the word here it is reserved forest, shall apply to such forest or land, and the net profits, if any, arising from the management of such forest or land shall be paid to the said owner.”

Now, under Section 36, the government is assuming the management of certain forest, if the person who is having the forest or is the owner of such forest, is not doing things that are proper in the view of the government.

So, under these circumstances, the government can assume the management of the forest; all the provisions of the reserved forest shall apply to the such land; all those things that are prohibited in a reserved forest shall automatically become prohibited in these forests, if the government so declares. And, when the management is done, if there is any profit so, the net profits so that is the gross profit minus the cost of management, will be paid to the owner.

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Ownership does not change.

**38. Protection of forests at request of owners.**(1) The owner of any land or, if there more than one owner thereof, the owners of shares therein amounting in the aggregate at least two-thirds thereof may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector 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.

Then the government can also do “Protection of forest at the request of owners. The owner of any land or, if there is there are more than one owners thereof, the owners of shares therein amounting in aggregate at least two-thirds thereof may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector their desired - 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.”

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

(2) In either case, the State Government may, by notification in the 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.

**CHAPTER VI OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE**

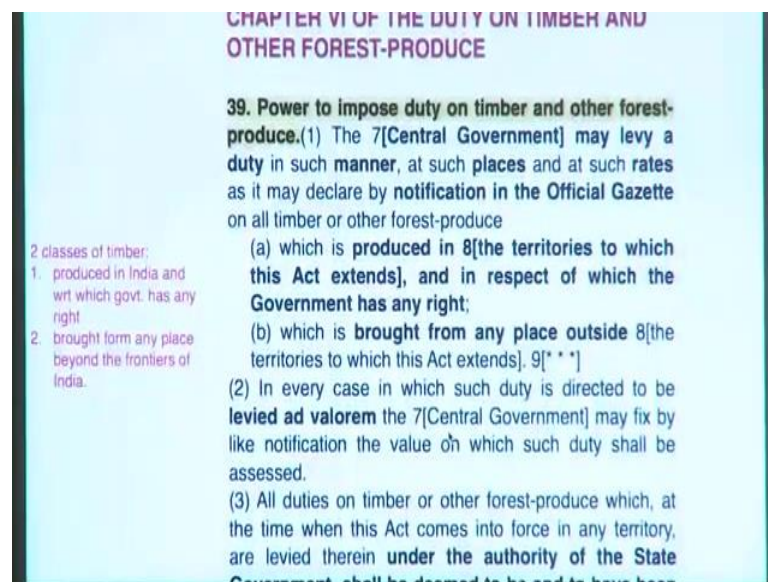
**39. Power to impose duty on timber and other forest-produce.**(1) The 7[Central Government] may levy a



Or “that all or any of the provisions of this act we applied to such land, and in either case, the State Government may, by notification the Official Gazette, apply to such land the such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.”

So, what the section is saying is that the, if the owner of the forest request the government that they want the government to protect their forests on their behalf, then the Government may even take action and protect those forests on behalf of the owners. So, that is also another option that is available with the government for the private forests.

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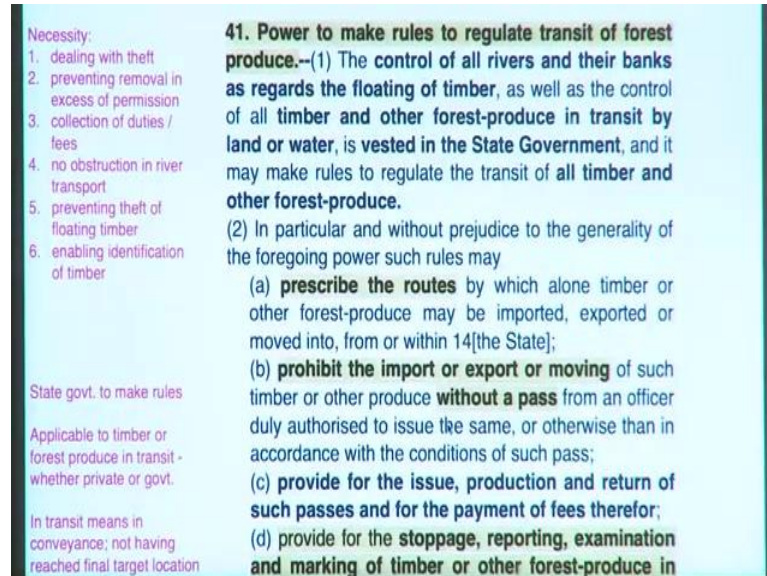


Now, other powers of the government include the “Power to impose duty on timber and other forest produce.” Now, why is a duty important? It is not only a source of revenue; but also, because when you are when you are putting a duty on timber and forest-produce, in that case, you will be setting up depots, and any movement of timber or forest-produce shall become regulated automatically. So, people will have to come up with paperwork; people will have to come up with proofs, if they have to move timber or forest-produce from one place to another place, and this is a very good mechanism to enforce the protection of forests.

So, if there is a forest from which timber or forest-produce are being extracted illegally; so, the this mechanism of duties and are and in centres for collecting these duties, will

ensure the protection, and will ensure that people are not taking out forest or other forest timber or other forest-produce illegally from the forest.

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Necessity:

1. dealing with theft
2. preventing removal in excess of permission
3. collection of duties / fees
4. no obstruction in river transport
5. preventing theft of floating timber
6. enabling identification of timber

State govt. to make rules

Applicable to timber or forest produce in transit - whether private or govt.

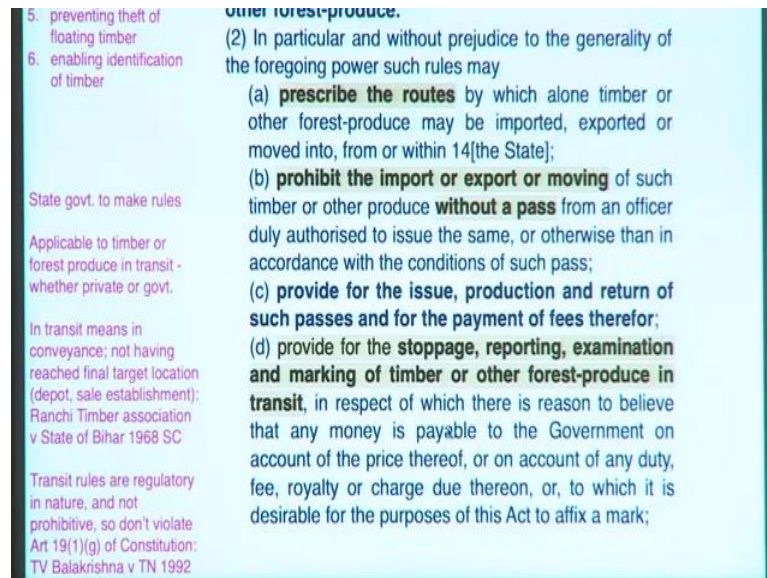
In transit means in conveyance; not having reached final target location

**41. Power to make rules to regulate transit of forest produce.--**(1) 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 State Government, and it may make rules to regulate the transit of all timber and other forest-produce.

(2) In particular and without prejudice to the generality of the foregoing power such rules may

- (a) **prescribe the routes** by which alone timber or other forest-produce may be imported, exported or moved into, from or within 14[the State];
- (b) **prohibit the import or export or moving** of such timber or other produce **without a pass** from an officer duly authorised 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**

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5. preventing theft of floating timber

6. enabling identification of timber

State govt. to make rules

Applicable to timber or forest produce in transit - whether private or govt.

In transit means in conveyance; not having reached final target location (depot, sale establishment):  
Ranchi Timber association v State of Bihar 1968 SC

Transit rules are regulatory in nature, and not prohibitive, so don't violate Art 19(1)(g) of Constitution:  
TV Balakrishna v TN 1992

**Other forest-produce.**

(2) In particular and without prejudice to the generality of the foregoing power such rules may

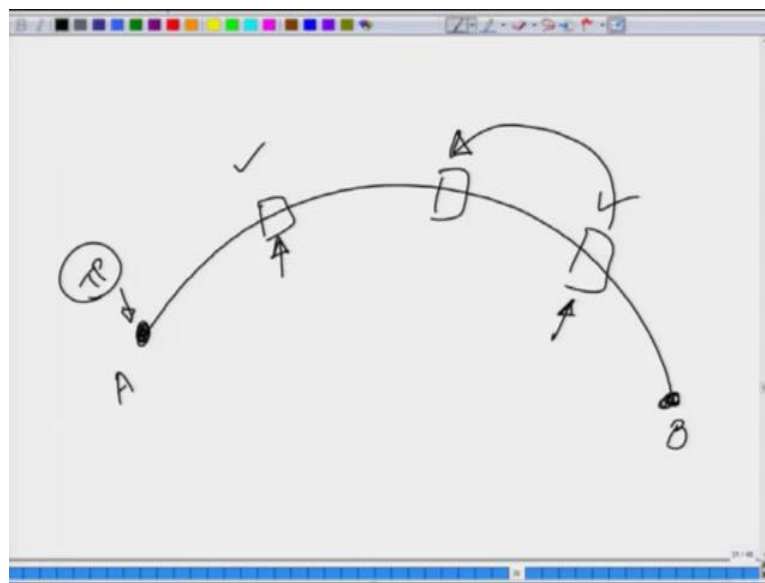
- (a) **prescribe the routes** by which alone timber or other forest-produce may be imported, exported or moved into, from or within 14[the State];
- (b) **prohibit the import or export or moving** of such timber or other produce **without a pass** from an officer duly authorised to issue the same, or 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 the 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;

Next, the government has “the power to make rules to regulate the transit of forest-produce,” and in this case, the government can “prescribe the routes by which alone timber or or other forest produced may be imported, exported or moved in, from or within the state.” So, now, the government can say you can move your timber, but only on these routes; because only on these routes, we will have to check whether you are

having the permits or not; or whether or not you are paying the duties; and on the other routes, we there will not be a necessity to check your timber, because if you are taking it on any other routes, then you are automatically committing a forest-offense.

The government may “prohibit the import or export or moving without a pass.” Now, in this case, what we issue is known as a transit pass or a TP. Now, this transit pass contains details about where this material is taken from and where this material is moving. So, at every location you will have to get your transit pass certified.

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So, what is happening is that, suppose you are taking your forest-produce from this location, and you have; so, you are moving your forest-produce like this, from location A to location B. Now, in this case, suppose you have three places where the these transit passes will be checked by the government or by the forest officials.

So, what will happen is that, at this location, you will have a TP that is issued for the moment of this timber, and as soon as you reach this point where which is a which is a forest-produce checking naka. So, in this case, this TP will be checked and if everything is all right, then the officer will sign or probably issue another TP and keep the first TP with himself.

Then, you go to this location and your TP is checked again, then you go to this location and your TP is checked again. Now, suppose a person went to the first one left out the

second one, and then moved to the third one; what will happen then? Then there will then this will be considered to be a break in the TP system, and in this case, this person will be required to go to this spot again, get his TP verified and only then he will be allowed to move further on; because this is a power that has been vested with the government.

So, the government can not only prescribe the routes, but the government cannot prescribe the import or export or moving of timber and other forest produce without a pass, which is the transit pass.

“Provide for the issue, production and return of such passes for payment of fees; provide for stoppage, reporting, examination and marking of timber and other forest-produce in transit.” So, the government can stop you, if you are carrying timber or other forest produce, and the government can ask you to show where you are bringing all of these from; the government can examine your forest produce; the government can even mark your forest-produce, to ensure that you are not bringing in illicit forest-produce or timber.

So, the forest officers have been given all these powers by the government and through this act.

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that there is no control or regulation over movt. of timber; it does not mean that movement outside state is prohibited or executive is empowered to issue such an order; *Bhartia and sons v Bihar* 2002 Patna HC

Specified local limits is not area of local authority / local body; it simply refers to specified limits, whatever it be; *Itarsi Timber Merchants Association v State* 1987 MP

(e) provide for the **establishment and regulation of depots** 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 depots;

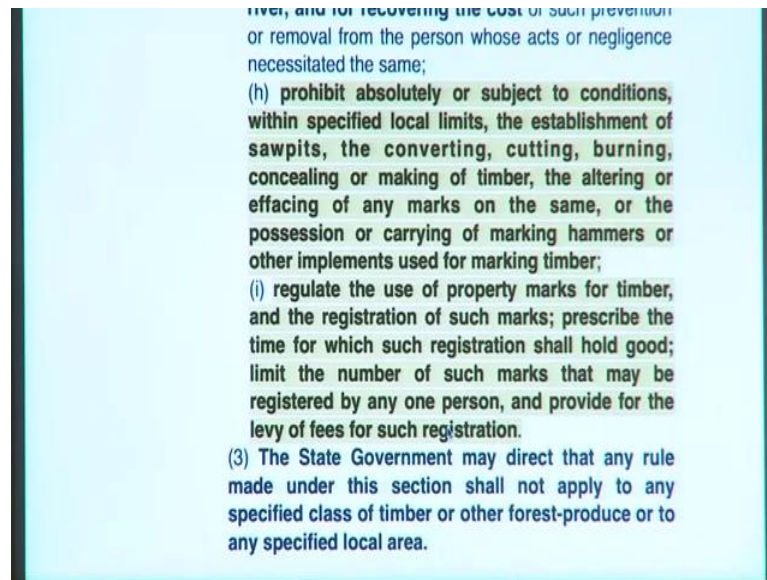
(f) **prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest-produce, and the throwing of grass, brushwood, branches or leaves into any such river or any act which may cause such river to be closed or obstructed;**

(g) provide for the **prevention or 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**



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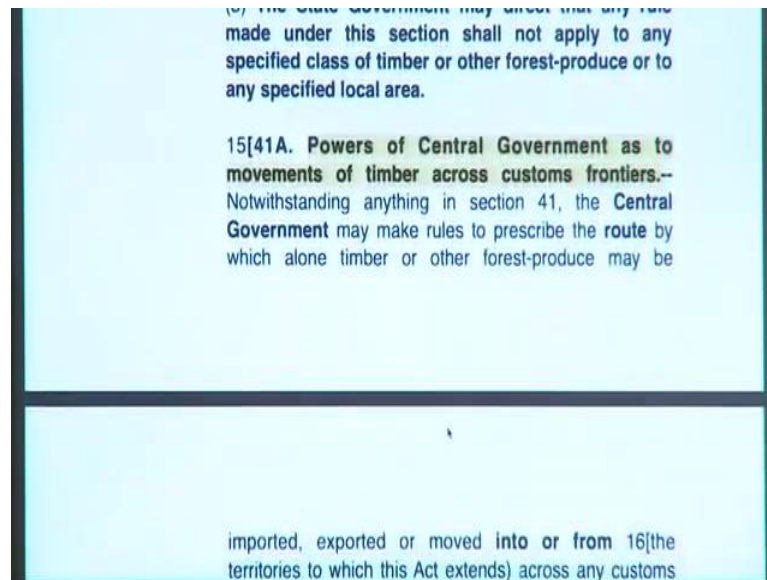
The government may provide for the establishment and regulation of depots. “Prohibit absolutely or subject to conditions within specified local limits, the establishment of sawpits the converting, cutting, burning, concealing or marking of timber, the altering or effacing of any marks on the same, or the possession or carrying of marking hammers or other implements used for marking timber.”

Now, this section is giving the power to limit or prohibit the establishment of sawpits; now, what is a sawpit? It is a location in which you are using a saw to convert your timber into specified sizes. So, those locations where you are doing these sawpit the this the sawing operations, can be prohibited or can be limited; that is prohibited subject to certain conditions. The government may prohibit or subject or subject to conditions the converting cutting, burning, concealing, marking of timber and so on.

The government may “regulate the use of property marks for timber, 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.”

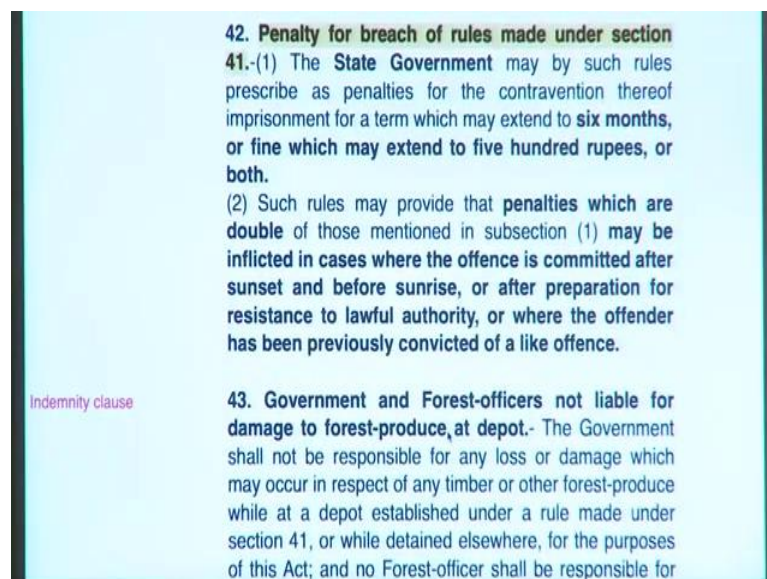


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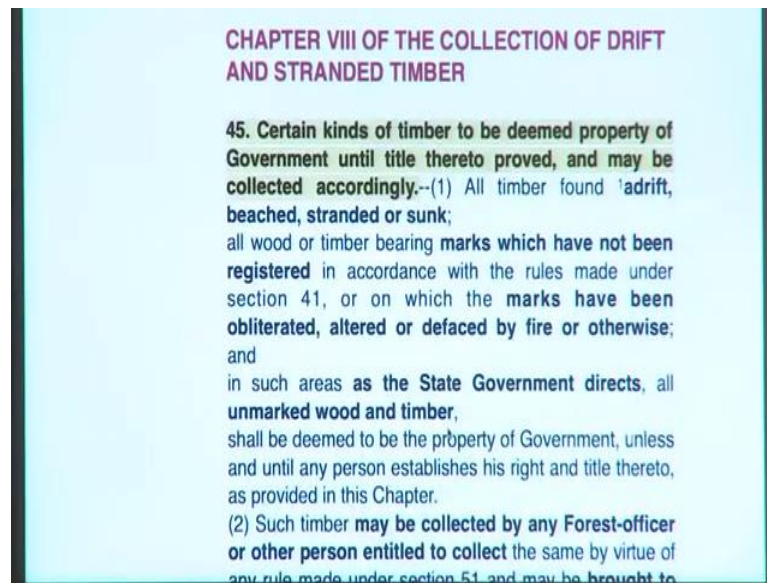
Now, this act not only gives powers to the State Government, but also to this the Central Government. “Powers of Central Government as to movement of timber across customs, frontiers.”

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Then, you have penalty for breach of rules under this act.

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Next, you have “certain kinds of timber to be deemed property of Government until title thereto proved and may be collected accordingly.” Now, here we are talking about adrift timber and stranded timber. Now, adrift timber is something that is that has adrift away say, through a waterway, and stranded timber is something that you find stranded somewhere.

Now, it is a common occurrence that whenever you catch hold of somebody with an illicit timber, he or she will say that I did not cut this tree, I just found it somewhere. Now, the act tries to close that loophole, by saying that if somebody has found something if it is adrift or stranded timber, then it is a property of the government. So, in this case, the person should have given this to the nearest forest officer, and so, if somebody says that I just found this timber somewhere, then also he is committing an offense.

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**51. Power to make rules and prescribe penalties.-(1)**  
The State Government in make rules to regulate the following matters, namely:  
(a) the **salving, collection and disposal** of all timber mentioned in section 45;  
(b) the **use and registration of boats used in salving and collecting timber**;  
(c) the **amounts to be paid** for salving, collecting, moving, storing or disposing such timber; and  
(d) the **use and registration of hammers and other instruments** to be used marking such timber.  
(2) The State Government may prescribe, as penalties for the contravention of any rule 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.**

Powers of forest officers, police officers and Magistrate: 52-61

**CHAPTER IX PENALTIES AND PROCEDURE**

**52. Seizure of property liable to confiscation.-(1) When**

Then, the Section 51 is “Power to make rules and prescribe penalties. The State Government in can make rules to regulate the following matters, salving, collection and disposal of timber; use and registration of boats used in salving and collecting timber; amount to be paid for salving, collecting, moving, storing and disposing timber; use and registration of hammers and other instruments” and so on. And, if there is penalty for contravention, if there is a contravention the penalty is “six months or five hundred rupees fine or both.”

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Powers of forest officers, police officers and Magistrate: 52-61

Penalties for special kinds of offences:  
1. wrongful seizure: S62  
2. counterfeiting marks: S63  
3. tampering with boundary pillars: S63

Procedure: 64-67  
Compounding: 68

**CHAPTER IX PENALTIES AND PROCEDURE**

**52. Seizure of property liable to confiscation.-(1) 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 or cattle** used in committing any such offence, may be **seized by any Forest-officer or Police-officer.**  
(2) 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**

1. Things liable to be  
DEO/API v. Sudhakar Ban 1986 SC: 1, confiscation and prosecution are different matters.

Now, if there is a forest-offence that is committed, then in the penalty section there can also be seizure of the property. So, the property can be seized from the person and what are all can be seized? The forest-officer can seize the produce, so that is the timber and the other forest-produce, together with all tools, boats, carts or cattle that were used in committing such offence, and they may be seized by either a forest-officer or a police-officer.

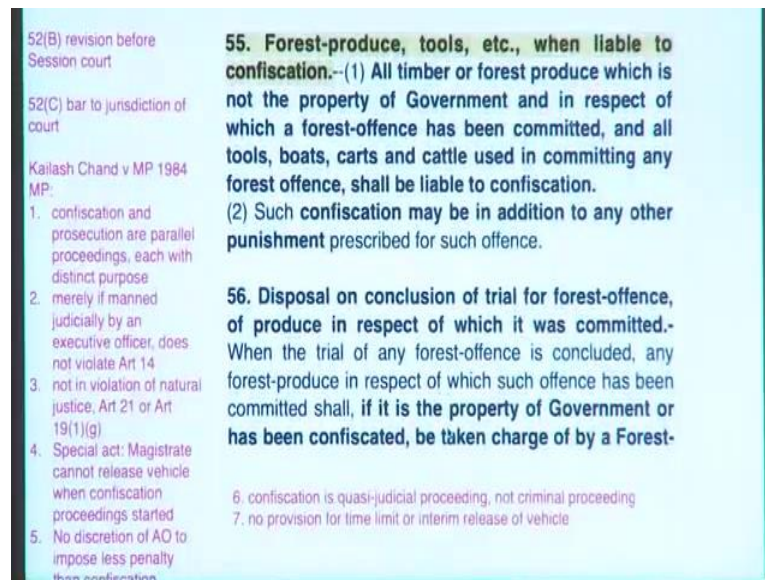
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final.	official superior.
MP amendments: 52(1) power to seize 52(2) report for confiscation to AO (auth.off.), for criminal proceedings to Magistrate 52(3) power of AO to confiscate. Copy of order to CF 52(4) Conditions to be fulfilled prior to 52(5) burden to prove innocence on owner	<b>53. Power to release property seized under section 52.</b> -Any Forest-officer of a rank not inferior to that of a Ranger who, or whose subordinate, has seized any tools, boats, carts or cattle under section 52, may release the same on the execution by the owner thereof a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.
52(A) Appeal against order of confiscation: 1. CF as appellate authority 2. power of CF to act suo moto or on appeal 3. -8 procedure thereafter	<b>54. Procedure thereupon.</b> -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.
52(B) revision before Session court	<b>55. Forest-produce, tools, etc., when liable to confiscation.</b> -(1) All timber or forest produce which is not the property of Government and in respect of

So, this act provides for seizure of property, then if the property has been seized, it may be released or it may be confiscated.



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52(B) revision before Session court

52(C) bar to jurisdiction of court

Kailash Chand v MP 1984 MP:

1. confiscation and prosecution are parallel proceedings, each with distinct purpose
2. merely if manned judicially by an executive officer, does not violate Art 14
3. not in violation of natural justice, Art 21 or Art 19(1)(g)
4. Special act: Magistrate cannot release vehicle when confiscation proceedings started
5. No discretion of AO to impose less penalty than confiscation

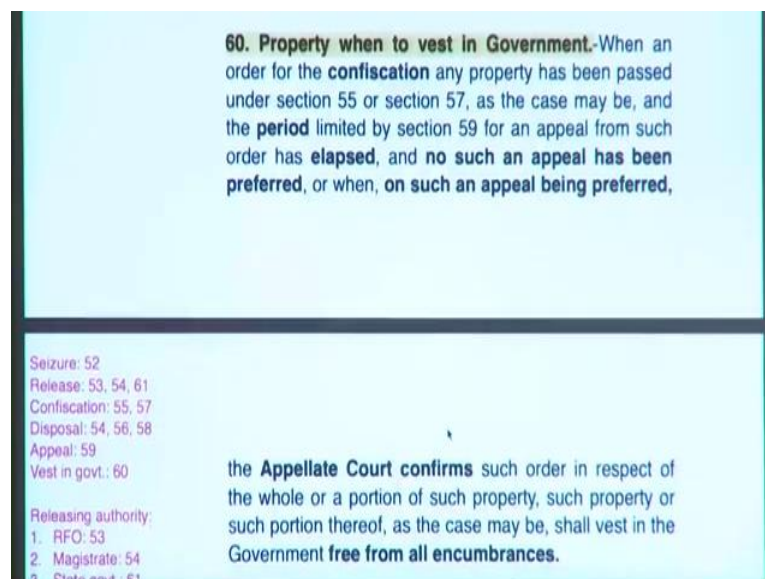
**55. Forest-produce, tools, etc., when liable to confiscation.**-(1) All timber or forest produce which is not the property of Government and in respect of which a forest-offence has been committed, and all tools, boats, carts and cattle used in committing any forest offence, shall be liable to confiscation. (2) Such confiscation may be in addition to any other punishment prescribed for such offence.

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

6. confiscation is quasi-judicial proceeding, not criminal proceeding
7. no provision for time limit or interim release of vehicle

Now, when you confiscate something, it means that this property has now become government property. So, the government may confiscate such property, if they find that it that a forest-offense has been committed.

(Refer Slide Time: 33:58)



**60. Property when to vest in Government.**-When an order for the **confiscation** any property has been passed under section 55 or section 57, as the case may be, and the **period** limited by section 59 for an appeal from such order has **elapsed**, and **no such an appeal has been preferred**, or when, on such an appeal being preferred,

Seizure: 52  
Release: 53, 54, 61  
Confiscation: 55, 57  
Disposal: 54, 56, 58  
Appeal: 59  
Vest in govt.: 60

Releasing authority:  
1. RFO: 53  
2. Magistrate: 54  
3. State govt.: 61

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 encumbrances**.

So, generally what we find is that in the transportation of timber, you will find that there are certain vehicles that have been used to transport illicit timber from one place to another. So, in those cases, we seize and confiscate not only the timber, but also the



vehicle that was being used for such transport. So, typically it is a truck or a mini truck, and in that case, these trucks or mini trucks they become property of the government.

Now, Section 60 tells you property when to vest in the government. So, when an order of confiscation of any property has been passed under Section 55 or 57; the period has elapsed, no appeal has been preferred or where there is an appeal, the appellate court has confirmed everything.

(Refer Slide Time: 34:45)

Seizure: 52  
Release: 53, 54, 61  
Confiscation: 55, 57  
Disposal: 54, 56, 58  
Appeal: 59  
Vest in govt.: 60

Releasing authority:  
1. RFO: 53  
2. Magistrate: 54  
3. State govt.: 61

for ?  
1. tools  
2. vehicle  
3. forest produce

Disposal by magistrate:  
1. on reporting: 54  
2. on conclusion: 56  
3. perishable: 58

Appeal by State to HC u/s  
377 CrPC is competent:  
MH v Ingavale 1977 SC;  
Forest Officer, MH

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 encumbrances**.

**61. Saving of power to release property seized.-** Nothing hereinbefore contained shall be deemed to prevent **any officer empowered in this behalf by the State Government**, from directing at any time the immediate release of any property seized under section 52.

**62. Punishment for wrongful seizure.-Any Forest-officer or Police-officer who vexatiously and unnecessarily** seizes any property on pretence of seizing property liable confiscation under this Act shall be

So, the government gets this property and this property is free from all encumbrances. What does this mean? That if somebody had taken a loan on this particular vehicle, then the government only gets the vehicle; it does not get the loan. So, the government does not have to pay the loan. So, it is free from all encumbrances; there is nothing attached to this property.

(Refer Slide Time: 35:11)

Forest offences are cognisable; but DK Basu case guidelines 1997 SC will apply

**64. Power to arrest without warrant.--(1) Any Forest-officer or Police-officer without orders from a**

CrPC Chapter V - Arrest of Person  
Sec 41-60 :  
S 41 - arrest without warrant  
S43 - arrest by private person  
S 46 - arrest how made  
S 50 - person arrested to be informed of ground of arrest and of right to bail

**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.**

(2) Every officer making an arrest under this section shall, without unnecessary delay and subject to the provisions of this Act as to release on bond, take or send the person arrested before the Magistrate having

Next, the forest-officers or the police or the police-officers have the power to arrest without warrant, which means that these offenses are cognizable.

What is the difference between a cognizable and a non-cognizable offense? A cognizable offense is one where you can arrest a person without warrant. So, these are typically reserved for those offenses that are more grievous in nature. But then, the government this Act prescribes that any forest-offense is a grievous offense; and so, it is a cognizable offense.

Any forest-officer or police-officer, without orders from a magistrate and without a warrant, can arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offense punishable with imprisonment for one month or upwards. And, that typically includes all the forest-offenses under this act.

(Refer Slide Time: 36:10)

station.

Penalty for not preventing commission in UP u/s 66-A

Summary trial: Chap 21 CrPC: Speedy disposal; no formal charges framed.

Sec 260: by CJM and JM 1st class; offence not punishable with jail > 2yrs

Sec 261: by JM 2nd class

Sec 262: Max punishment < 3 months; no limit to fine

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

**67. Power to try offences summarily.-**The District Magistrate or any Magistrate of the first class specially empowered in this behalf by the State Government may try summarily, under the Code of Criminal Procedure, 1898, any forest-offence punishable with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees, or both.

Then, every forest-officer and police-officer has the power to prevent the commission of offenses. Now, “every forest-officer or/and police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offense.” So, it is not just that once a forest-offense has been committed, you can hold a person; but even if you find that there is somebody who is getting into your forest, to cut trees or maybe to light a fire, then if you have a reasonable suspicion, you can stop that person from doing a forest-offense.

Next you have “Power to try offenses summarily. The district magistrate or any magistrate of the first class specially empowered in this behalf by the State Government may try summarily, under the code of Criminal Procedure, 1898, any forest-offense punishable with imprisonment for a term not exceeding six months or fine not exceeding five hundred rupees or both.”

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Compounding: mutual consent / out of court settlement

Effecting the compounding:

1. compensation
2. value of property seized liable to confiscation
3. release of property / person

**68. Power to compound offences.**-(1) The State Government may, by notification in the Official Gazette, empower a Forest officer

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 62 or section 63, a sum of money by way of compensation for the offence which such person is suspected to have committed, and

(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any seized shall be released, and no further proceedings shall be taken against such person or property.

(3) A Forest officer shall not be empowered under this

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shall in no case exceed the sum of fifty rupees.

Accused cannot be convicted merely on presumption

While it is not proof, it can form the basis for attempting to establish govt. claims

Mere trespassing is enough; no need to establish damage

**69. Presumption that forest-produce belongs to Government.**-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 X CATTLE-TRESPASS**

**70. Cattle-trespass Act, 1871, to apply.**-Cattle trespassing in a reserved forest any portion of a protected forest which has been lawfully closed to grazing shall be deemed to be cattle doing damages to a

So, there is a provision of summary trials, there is a provision of compounding the offenses; presumption that forest produce belongs to the government, then you also have provisions for cattle trespass.

(Refer Slide Time: 37:22)

Mere trespassing is enough; no need to establish damage

**70. Cattle-trespass Act, 1871, to apply.-Cattle trespassing in a reserved forest any portion of a protected forest which has been lawfully closed to grazing shall be deemed to be cattle doing damages to a**

**public plantation** within the meaning of section II of Cattle-trespass Act, 1871 (1 of 1871), and may be **seized and impounded** as such by **Forest-officer or Police-officer**.

**71. Power to alter fines fixed under that Act.-The State Government may, with the sanction of the Official Secretary,**

So, “Cattle-trespass Act, 1871, to apply cattle trespassing in a reserved forest any portion of a protected forest which has been lawfully closed to grazing shall be deemed to be cattle doing damages to a public plantation under the meaning of Section II of the Cattle-trespass Act, 1871, and may be seized and impounded by such forest-officer or police-officer.”

(Refer Slide Time: 37:46)

1. Evidence of forest officers alone can be made basis of conviction without corroboration by independent witnesses.  
2. Forest officers are not police officers  
3. Embargo u/s 25 IEA not applicable to forest officers  
4. Confession made to forest officer admissible  
5. No legal requirement to attest such confession by another witness

Dr. Enrico D'Souza v State 1995 Bombay:  
1. Forest officers are not police officers  
2. Confession made to forest officer is admissible

**72. State Government may invest Forest-officers with certain powers.-**(1) The State Government may invest any Forest-officer with all or of the following powers, that is to say:-  
(a) power to enter upon any land and to survey, demarcate and make a map of the same;  
(b) the powers of a Civil Court to compel the attendance of witnesses and production of documents and material objects;  
(c) power to issue a search-warrant under the Code of Criminal Procedure, 1898 (5 of 1898); and  
(d) power to hold an inquiry into forest-offences, and, in the course of such inquiry, to receive and record evidence.

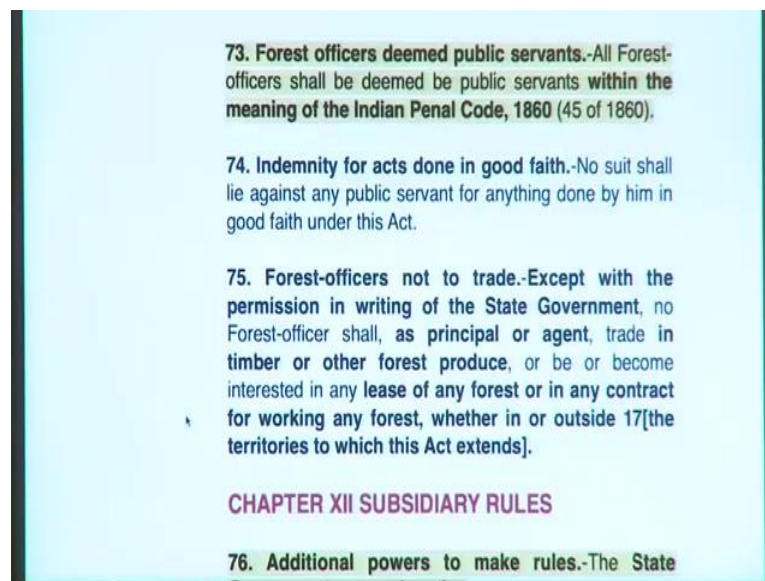
(2) Any evidence recorded under clause (d) of subsection (1) shall be admissible in subsequent trial before a Magistrate, provided that it has been taken in the presence of accused person.

Next, “State Government may invest forest officers with certain powers” and what are these powers? These powers are “power to enter upon any land and to survey, demarcate



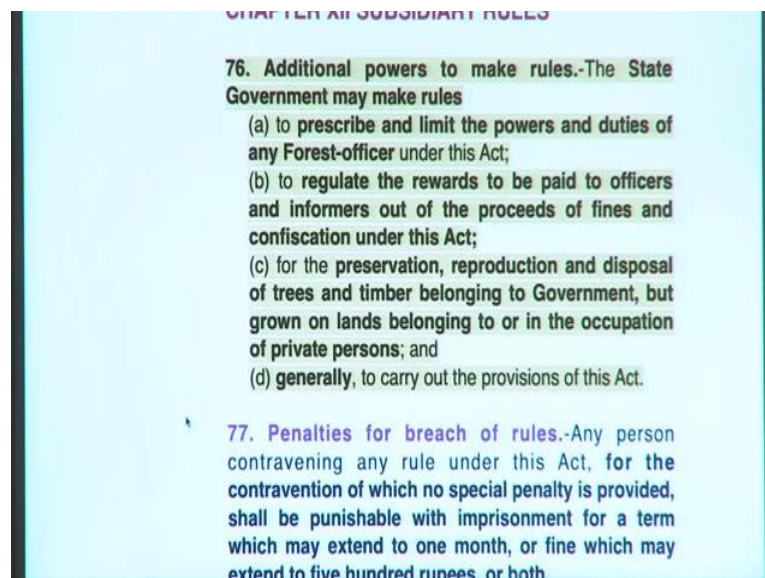
and make a map of the same; the powers of a civil court to compel the attendance of witnesses, production of documents and material objects; power to issue a search warrant under CRPC, 1898; power to hold an inquiry into forest offenses, and in the course of such enquiry to receive and record evidence. And, any evidence recorded under clause D of subsection 1 shall be admissible in subsequent trial before a magistrate, provided that it has been taken in the presence of the accused person.”

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And, forest-officers are deemed to be public servants under the meaning of the IPC 1860.

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Then, the government also has “the power to make rules - to prescribe and limit the powers and duties of any forest-officer; to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscation; to provide 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 generally to carry out the provisions of this act.”

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so far as they are consistent with this Act, have effect as if enacted therein.

### CHAPTER XIII MISCELLANEOUS

**79. Persons bound to assist Forest-officers and Police-officers.-**(1) 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 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 forthwith take

Who is a person?  
1. the statutory functionary has to be duly appointed by the govt.  
2. he should be a persona designate (designated person)  
VK Joseph v TN 1985  
Madras

Page 39 of 43

Then the miscellaneous provisions include that persons are bound to assist forest-officers and police-officers. So, if you are there inside the forest, if you are there in a depot, then you have to or you are bound to help the forest-officers and police-officers. So, these are the salient provisions of the Indian Forest Act 1927.

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**PART – I**

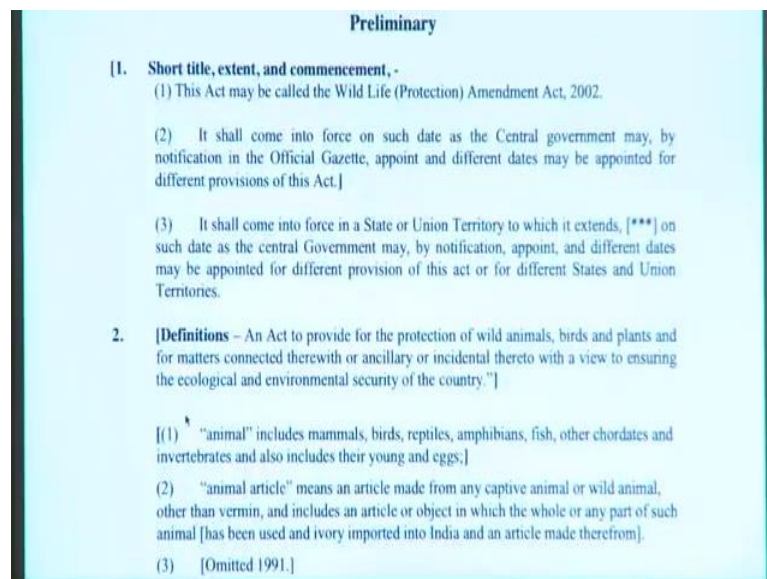
**THE WILDLIFE  
(PROTECTION) ACT, 1972**

**With**

**THE WILDLIFE (PROTECTION)  
AMENDMENT ACT, 2002**

Next, we have a look at the Wildlife Protection Act 1972.

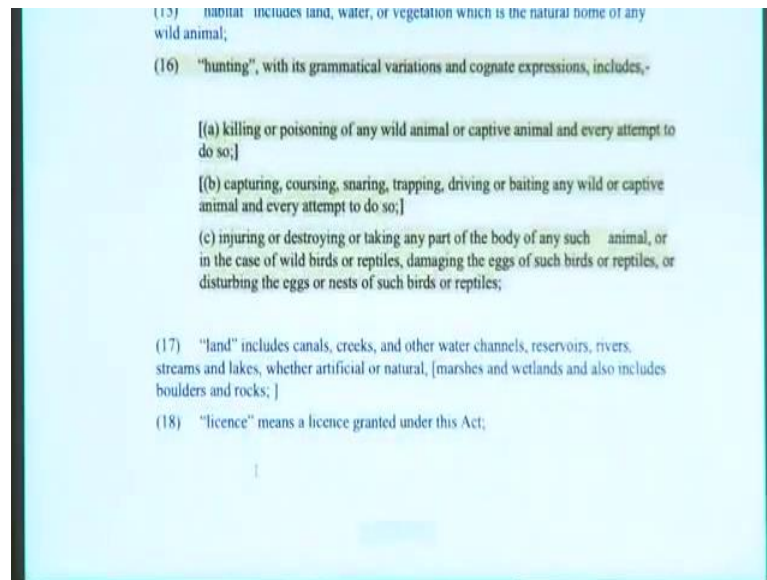
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Now, the Wildlife Protection Act, if we look at yeah, so, this is the preliminary portion.

This Act, this is the Amendment Act.

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Now, the Wildlife Protection Act defines "hunting, with its grammatical variations and cognate expressions, it includes, killing or poisoning of any wild animal or captive animal and every attempt to do so." So, if somebody is trying to attempt to kill a captive animal, or poison a wild animal, that is hunting.

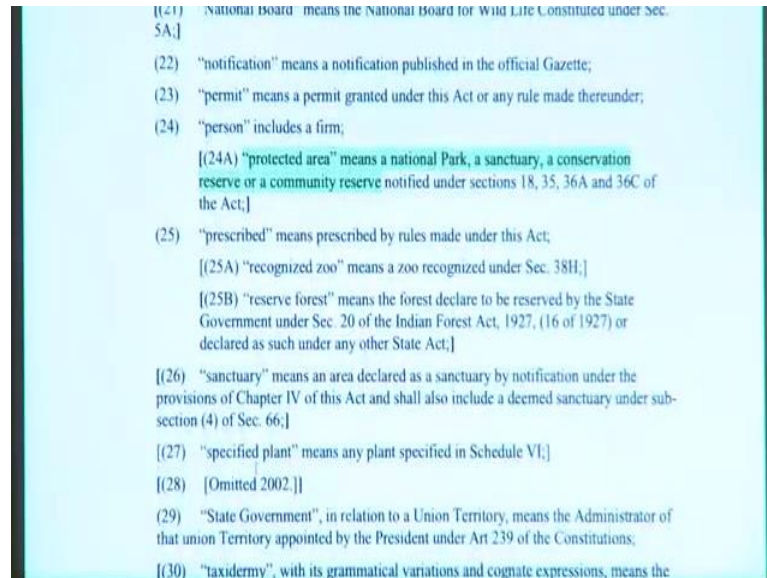
"Capturing, coursing, snaring, trapping, driving or baiting any wild or captive animal, and every attempt to do so; and, injuring or destroying or taking any part of the body of such animal, or in the case of wild birds and reptiles, damaging the eggs of such birds or reptiles, or disturbing the eggs or nest of such birds or reptiles."

Now, the important thing to note here is that, if somebody is trying to capture an animal; so, the person has not killed the animal, the person is only trying to capture the animal; is attempting to capture or has actually captured; but in the case of the Wildlife Protection Act, this capturing will come under the definition of hunting; and so, all the provisions of hunting will apply even if you want to capture an animal.

So, typically what happens is that, in a number of scientific expeditions, people want to capture an animal and say put a radio collar on top of the animal; so, that they are able to see where this animal is moving, but if you are trying to capture the animal, then this is hunting and you will have to take all the requisite permissions. Similarly, if somebody is trying to bait an animal; so, suppose somebody is passing through a forest area and there are monkeys nearby, and somebody is offering them Kurkure or potato chips, that is

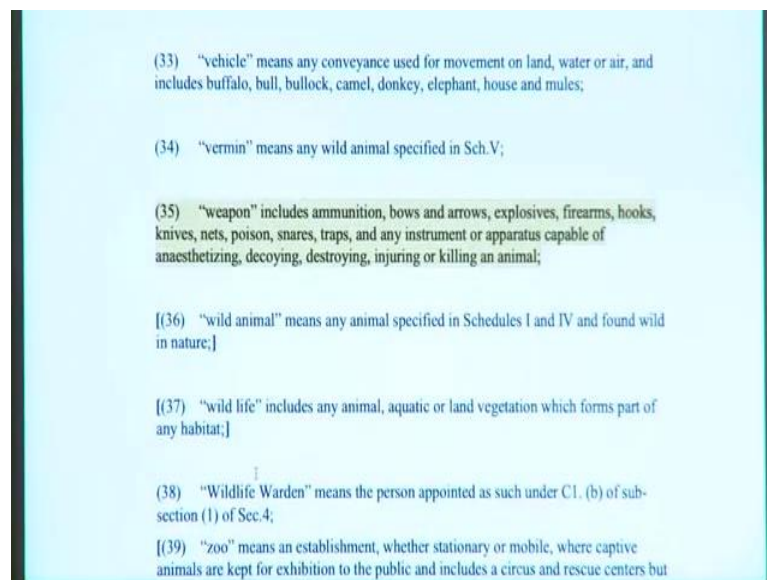
baiting of an animal and that is hunting; and, all the provisions of hunting shall apply in such case.

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Protected area means national park, sanctuary, conservation reserve, community reserve.

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Weapon, what is a weapon? Now the Wildlife Protection Act defines weapon as “weapon includes ammunition, bows, arrows, explosives, firearms, hooks, knives, nets, prisons - poisons, snare, traps and any instrument or apparatus capable of anesthetizing, decoying, destroying, injuring or killing an animal.”

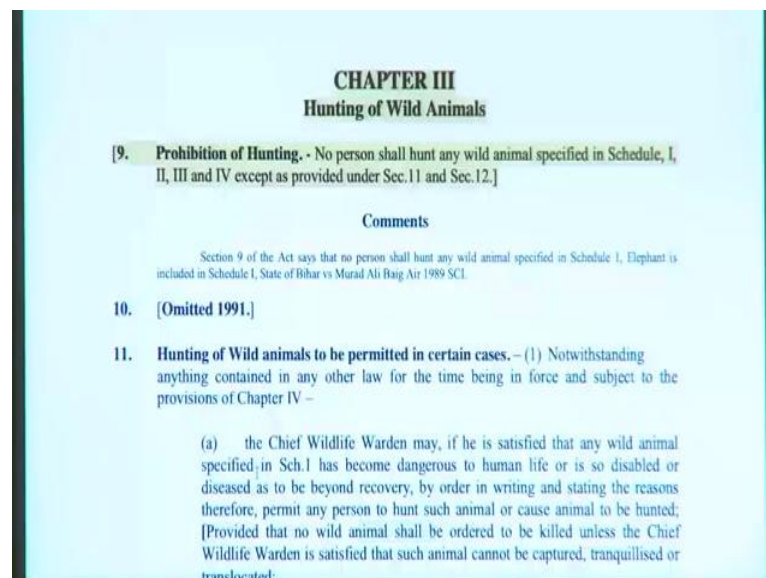


Now, some suppose somebody has entered into a wildlife area or a protected area with a vehicle, can a vehicle be called as a weapon? So, here the law would ask whether the vehicle comes under this definition: is a vehicle capable of injuring or killing an animal? If you bump your vehicle against an animal, will the animal will get injured; if the answer is yes, then your vehicle is a weapon.

Similarly, if somebody is taking a darting gun inside a forest to capture an animal; so, is that darting gun of weapon? You are not using it to kill the animal, you are only using it to anesthetize the animal, to be able to capture the animal. Now, in that case, is your darting gun or the immobilizing gun is that a weapon? So, the answer is - it an instrument or an apparatus that is capable of anesthetizing the animal? If it is yes, then yes; your darting gun is a weapon.

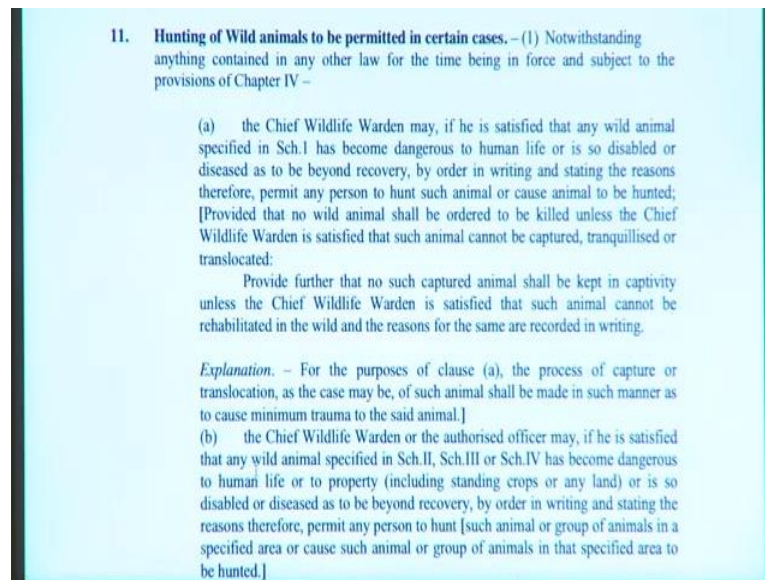
So, when we talk about the legal provisions, we have to be very careful about what the Act actually says. So, you cannot say that I was just using it to capture the animal, and my darting gun will not be able to kill the animal; so, this is not a weapon. You cannot take that recourse, because the Act has clearly stated what is a weapon? what is hunting? and so on.

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Next, we look at some other important provisions Chapter III – Hunting of Wild Animals. So, Section 9, says that “no person shall hunt any wild animal specified in schedule I, II, III and IV, except as provided under Section 11 and Section 12.”

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So, there is a prohibition of hunting. There is not a ban on hunting. So, the Wildlife Protection Act does not say that you cannot hunt an animal. It says that there is a prohibition; there is a limitation of hunting and you can only hunt as provided under Section 11 and Section 12. And, Section 11 and 12 - they provide for certain circumstances. So, for instance, Section 11 says, “that hunting of wildlife animals is permitted in certain cases such as – the Chief Wildlife Warden may, if he is satisfied that any wild animal is specified in Schedule I has become dangerous to human life or is so disabled or diseased as to be beyond recovery.”

So, in the case of Schedule I, if it is dangerous to human life; now mind here that it is it does not say dangerous to human life or to property. So, if there is an elephant; an elephant comes under Schedule I, so, if there is an elephant that is entering into the fields of villagers, and is destroying the crops that are there. Can the Chief Wildlife Warden may use of Section 11 a? The answer is no, because it says if the animal is dangerous to human life, not to property.

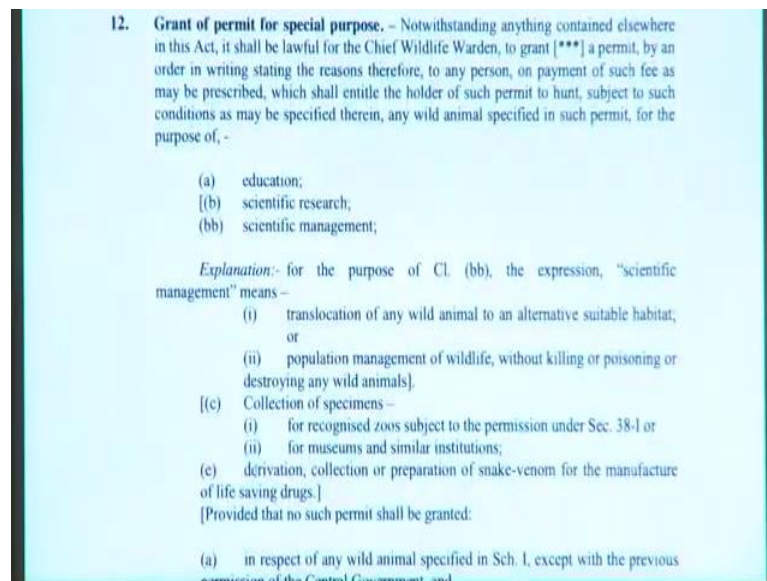
Whereas, if we look at Section 11 b, it says the Chief Wildlife Warden or the authorized officer; here the power is delegated even to the authorized officer as against in Section 11 a, where the power is only with the Chief Wildlife Warden. Now, in the case of Section 11 b, the chief wildlife warden or the authorized officer may, if he is satisfied that any wild animal specified in schedules II, III or IV has become dangerous to human

life or to property, including standing crops or any land, then he or she may give the permission to hunt this animal.

So, it is very important to keep in mind that when you are dealing with an animal, whether it is a scheduled I animal whether it is a scheduled II animal, scheduled III animal, scheduled IV animal; so, in the case of any animal, you have to look at which schedule does it belong to.

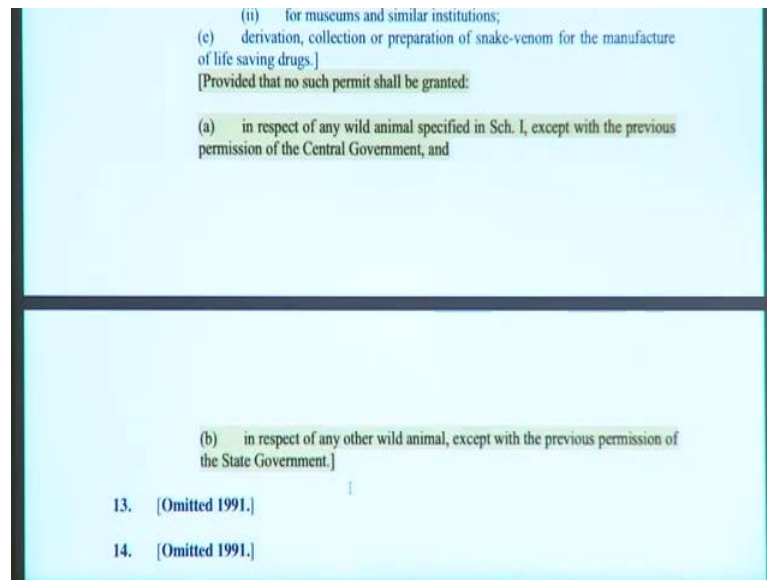
Then if you want to use make use of Section 11, it is an emergency provision only to be used for very extreme circumstances, if you have an animal that has become dangerous to human life or is so diseased or disabled as to be beyond recovery. So, these are all extreme circumstances then you can make use of Section 11 to hunt the animal.

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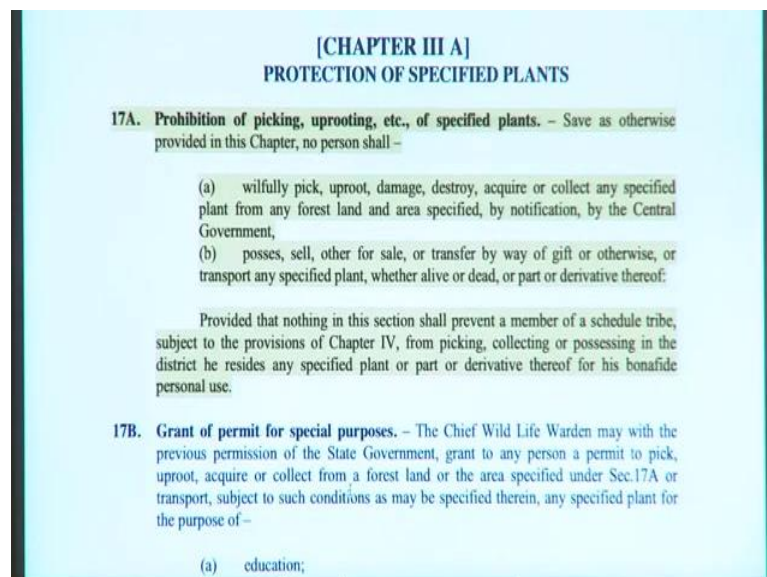
Otherwise, you can take a permission under Section 12, which says grant of permit for special purpose. In these purposes include “education, scientific research, scientific management, collection of specimen, derivation, collection or preparation of a snake venom for the manufacturing of life saving drugs and so on.”

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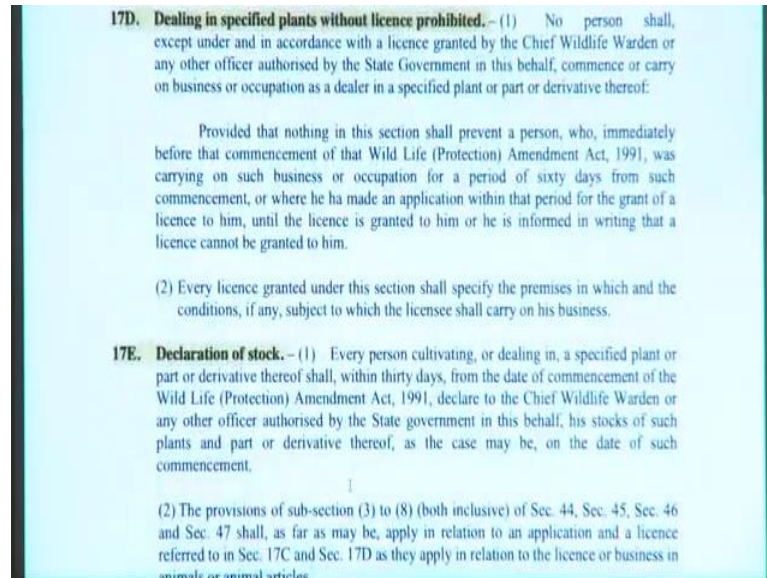
But here it says, “provided that no such permit shall be granted, in respect of any wild animal specified in Schedule I, except with the previous permission of the Central Government; and in respect of any other wild animal, except with the previous permission of the State Government.” So, these are the riders that are provided even in Section 12.

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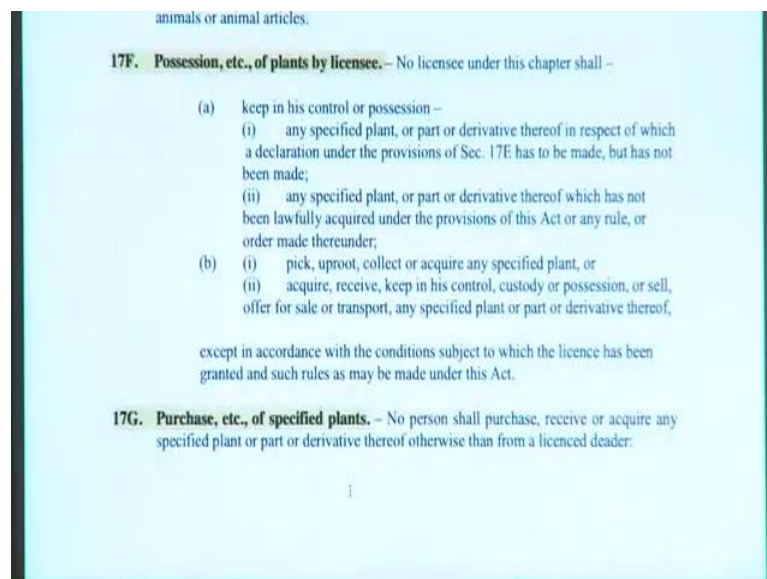
Next, Section 17 a - that was added later on with an amendment. It says prohibition of picking, uprooting, etcetera of specified plants. So, even plants are protected under the Wildlife Protection Act.

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Then, you have dealing in specified plants without a license is prohibited. You have to declare your stock, how much of this plant do you have?

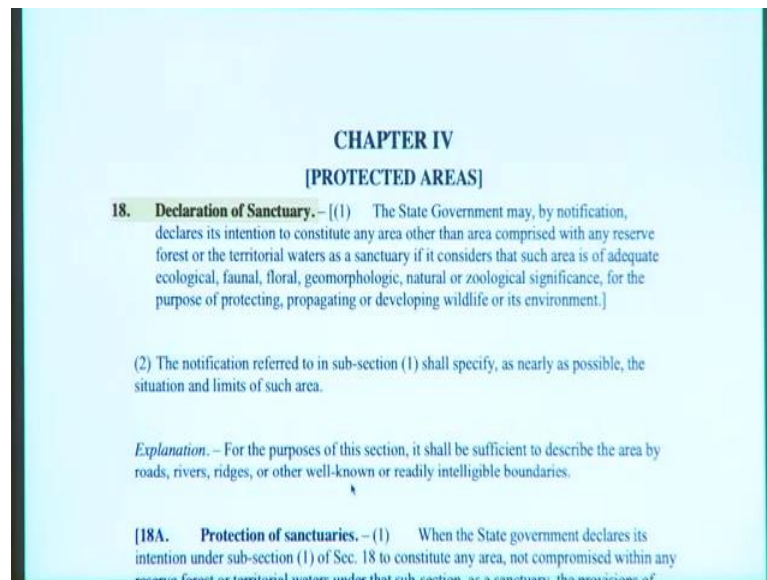
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Possession of plants by licensee, purchase of a specified plants, plants to be government property.

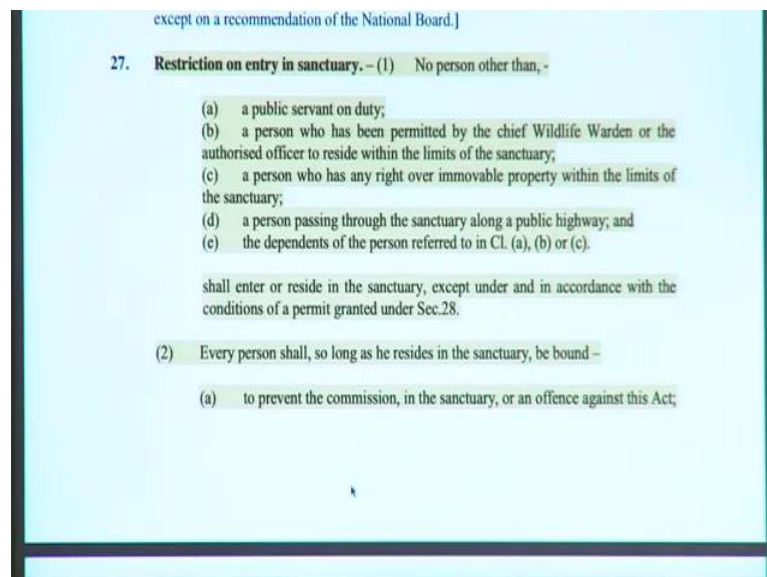


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Now, Chapter IV talks about protected areas. What is this a sanctuary? How do you declare a sanctuary?

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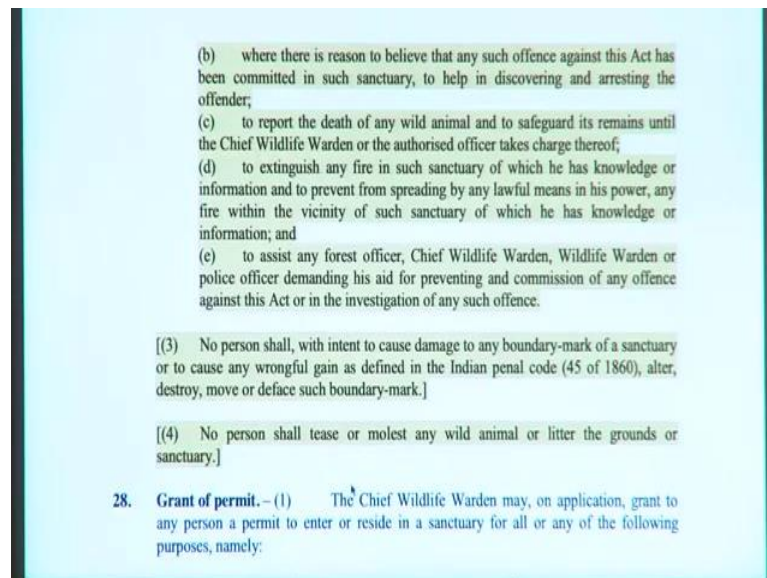
Then, in this case, you have what are the restrictions in the sanctuary. So, you have restriction on entry in a sanctuary. No person other than – a public servant on duty; so, you cannot be a public servant whose going on holiday, then you do not come under this definition; you have to be a public servant on duty or a person who has been permitted

by the chief Wildlife Warden or the authorized officer to reside within the limits of the sanctuary.

Or, a person who has any right over immoveable property within the limits of the sanctuary, or a person who is passing through the sanctuary along a public highway and the dependence of such person referred to in clause a, b or c, shall enter or reside in the sanctuary, except under and in accordance with the conditions of a permit granted under Section 28.

So, it is now restricting the entry and residence of people inside the sanctuary.

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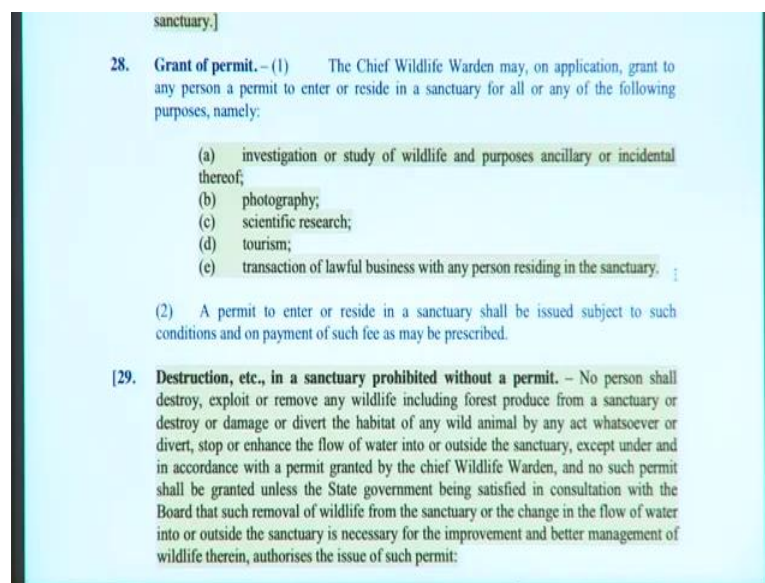
And, every person shall so long as he resides in the sanctuary, be bound to prevent the commission in the sanctuary of an offence against this act, where there is reason to believe that any such offence against this act has been committed in sanctuary, to help in discovering and arresting the offender; to report the death of any wild animal and to safeguard its remains until the chief Wildlife Warden or the authorized officer takes charge thereof.

To extinguish any fire in such sanctuary of which he has knowledge or information and to prevent from spreading by any lawful means in his power; any fire within the vicinity of such sanctuary of which he has knowledge or information; and to assist any forest officer, the Chief Wildlife Warden, Wildlife Warden or police-officer demanding his aid

for preventing and commission of any offence against this Act or in the investigation of any such offence.

So, even if you are getting a permit to enter a sanctuary, you have also certain duties that you have to be mindful of. Then it says, no person shall, with intent to cause damage to any boundary-mark of a sanctuary or to cause any wrongful gain as defined in the IPC 45 of 1860, alter, destroy, move or deface boundary marks; and, no person shall tease or molest any wild animal or litter the grounds of a sanctuary.

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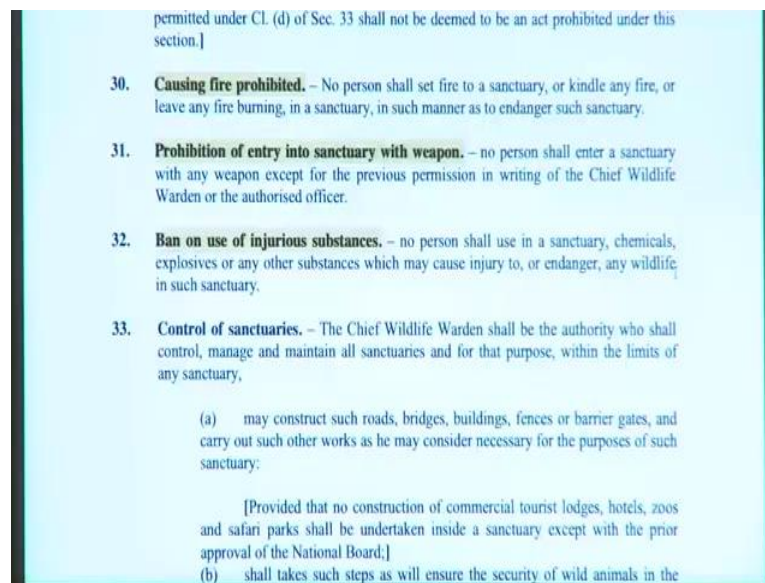
Then under Section 28 – the Chief Wildlife Warden can give permit under certain for certain situations such as investigation, study of wildlife, photography, scientific research, tourism, transaction of lawful business, when with any person residing in a sanctuary. So, there are provisions that are available.

Then, Section 29 is a very important – Section it says that destruction etcetera and mind this word etcetera, in a sanctuary prohibited without a permit. No person shall destroy, exploit or remove any wildlife including forest-produce from a sanctuary. So, no person shall remove a forest-produce from a sanctuary; or destroy or damage or divert the habitat of any wild animal by any act whatsoever or divert, stop or enhance the flow of water into or outside the sanctuary, except under and in accordance with the permit granted by the chief wildlife warden.

And no such permit shall be granted unless the State Government being satisfied in consultation with the board; and here the board is the state board of wildlife, that such removal of wildlife from the sanctuary or change in the flow of water into or outside the sanctuary is necessary for the improvement and better management of wildlife therein, authorises the issue of such permit.

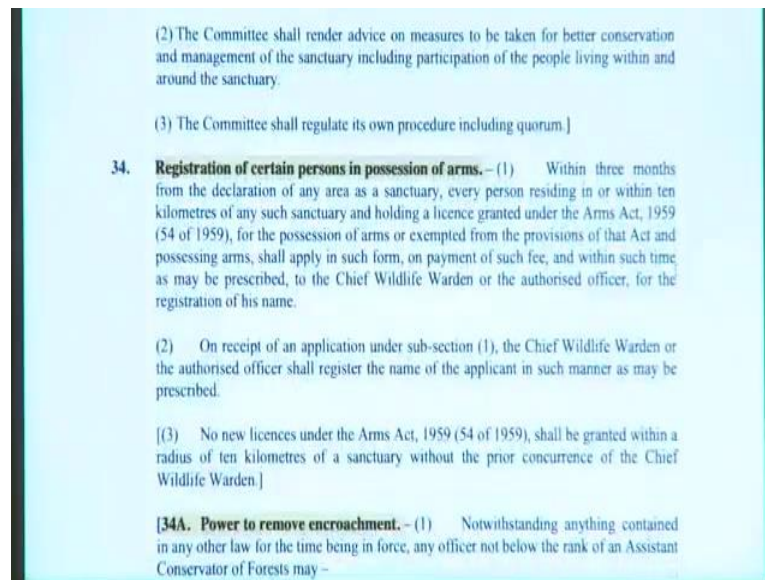
So, what this section is saying is that you cannot cause destruction in a sanctuary.

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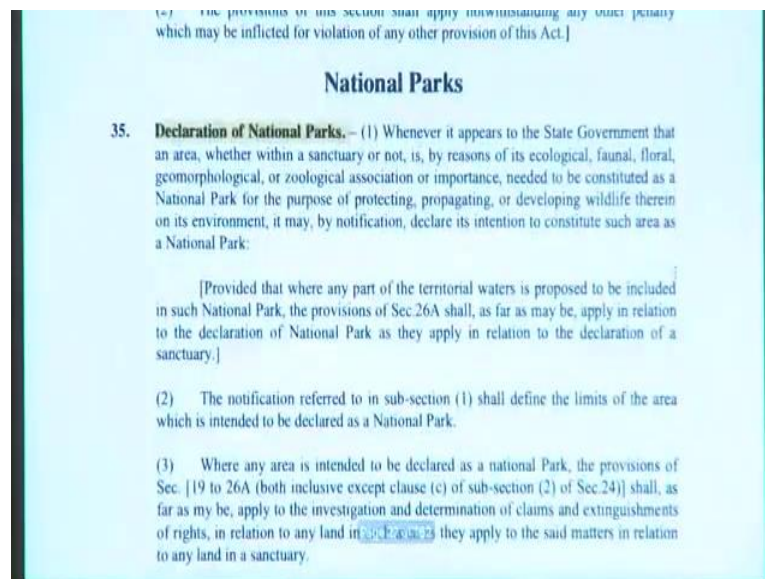
Then causing a fire is prohibited; there is prohibition of entry into sanctuary with weapon; ban on use of injurious substances; immunization of livestock.

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Registration of certain persons in position of arms, power to remove encroachment.

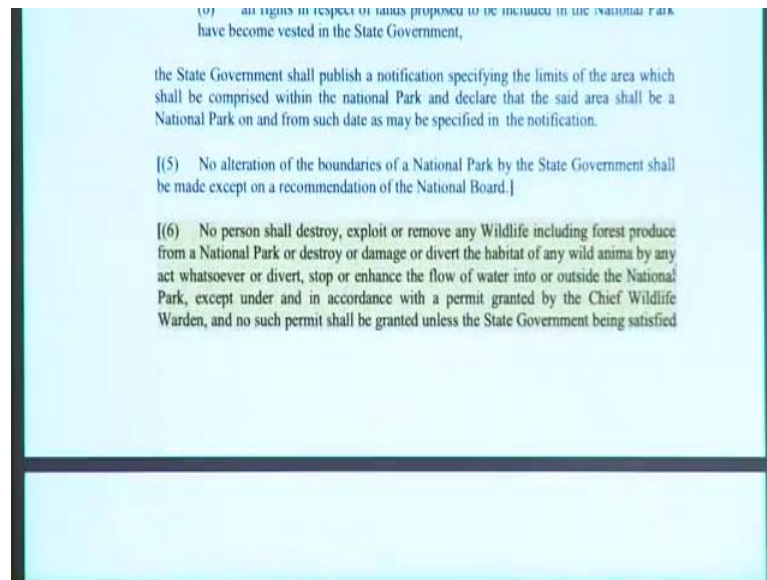
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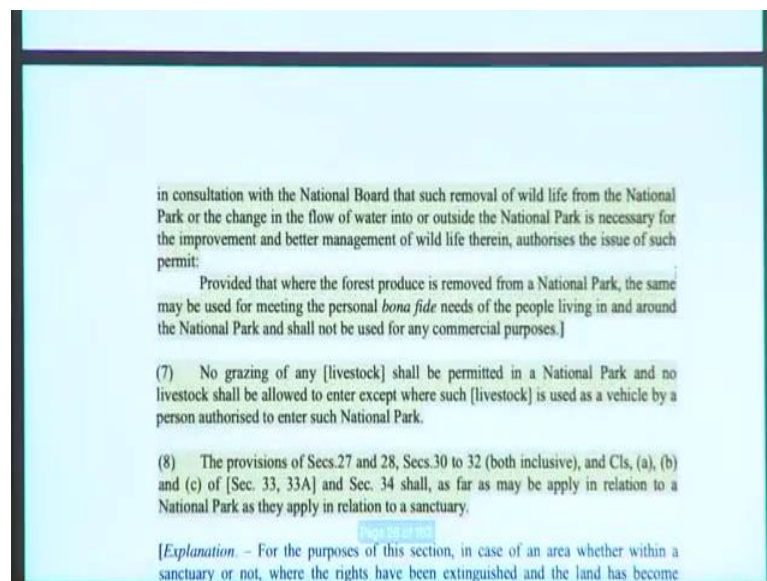
Then, Section 35 is declaration of national parks.



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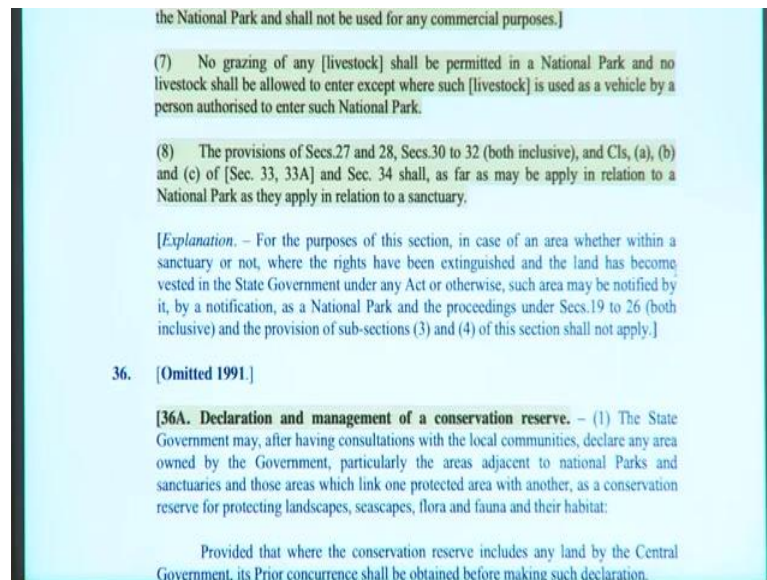


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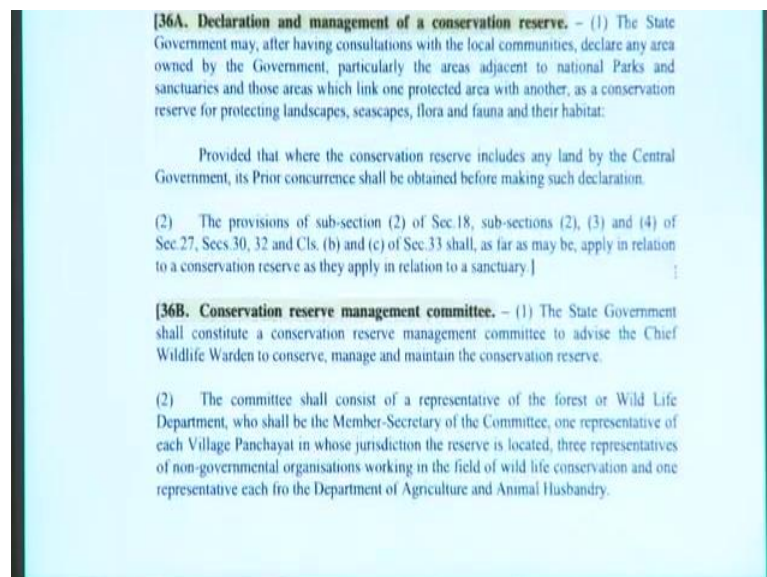
How do you declare a national park? and in this case, also you have all different restrictions that are there.

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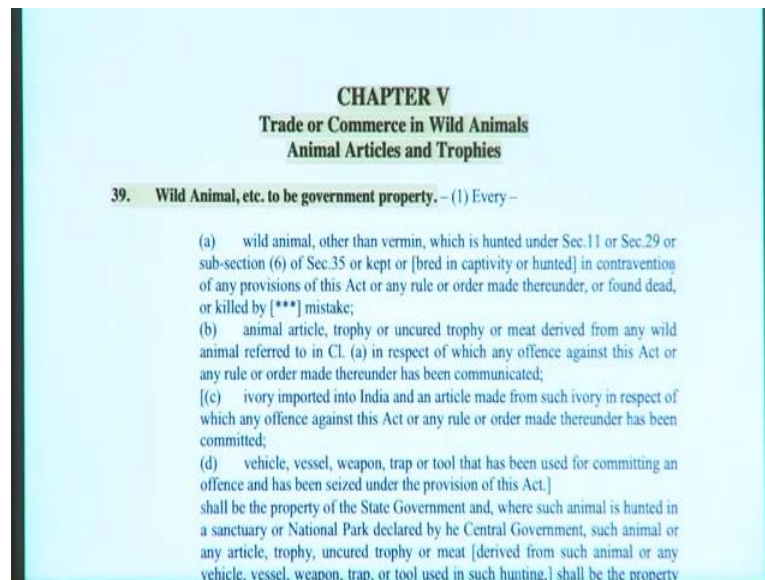
No grazing is permitted. All the other sections Section 27, 28, 30, 32 shall apply in the case of national parks.

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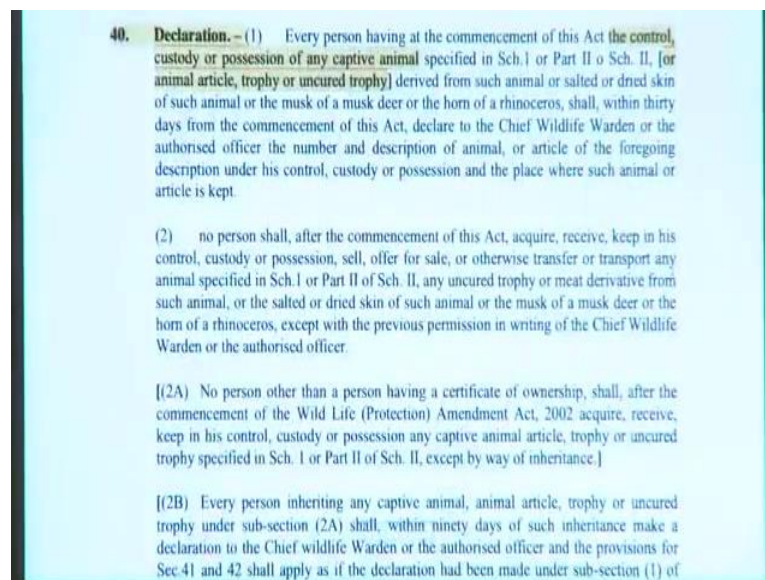
Then, you have conservation reserve that is managed by a conservation reserve management committee, and then you have a community reserved and community reserved management committee. So, this act is now telling you about what all things can be done and cannot be done in these areas.

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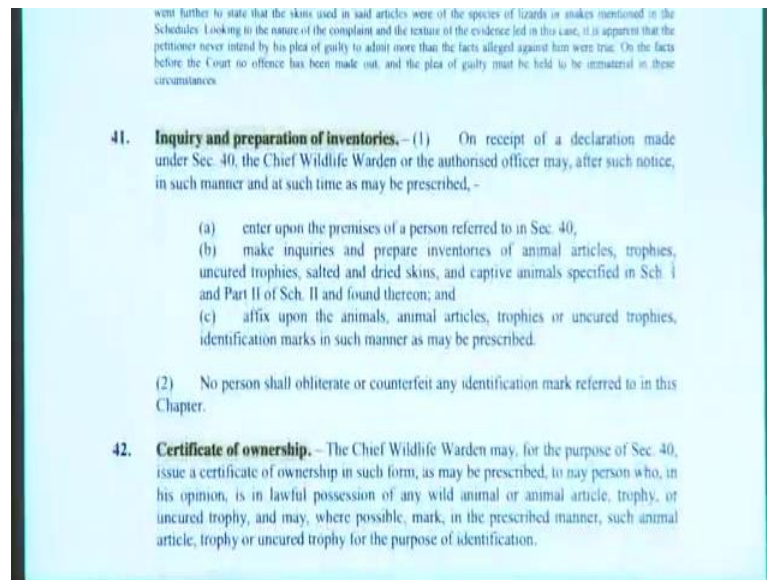
Then, trade or commerce in wild animals, animal articles and trophies; so, wild animal etcetera are government properties.

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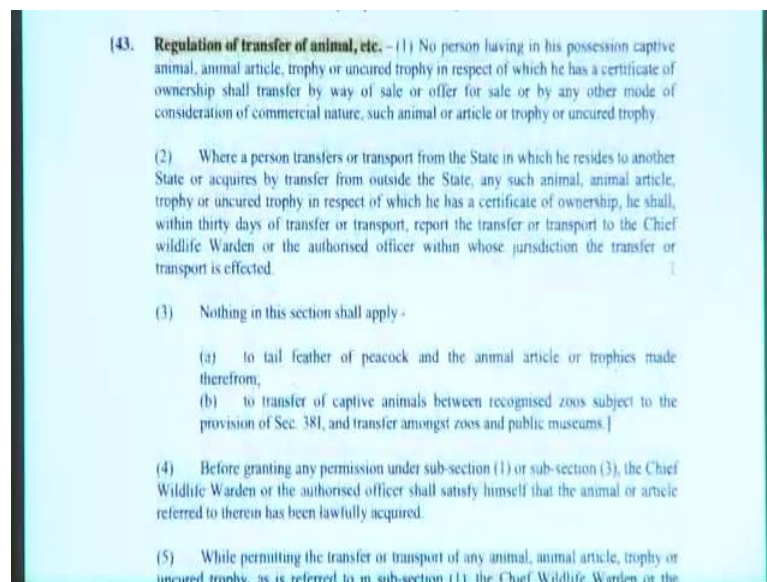
If you are in position of an animal article, trophy or uncured trophy, then you have to declare it to the government.

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Then there is inquiry and preparation of inventories, you need to have a certificate of ownership.

(Refer Slide Time: 53:15)



Regulation of transfer of animal.



(Refer Slide Time: 53:18)

**44. Dealings in trophy and animal articles without licence prohibited.** - (1) [Subject to the provisions of Chapter VA, no person shall, except under, and in accordance with, a licence granted under sub-section (4), -]

- (a) commence or carry on the business as -
  - (i) a manufacturer of, or dealer in, any animal article; or
  - (ia) [Omitted];
  - (ii) a taxidermist, or
  - (iii) a dealer in trophy or uncured trophy; or
  - (iv) a dealer in captive animal; or
  - (v) a dealer in meat; or
- (b) cook or serve meat in any eating-house;
- (c) derive, collect or prepare, or deal in, snake venom.].

Provided that nothing in this sub-section shall prevent a person, who immediately before the commencement of this Act was carrying on the business or occupation specified in the sub-section, from carrying on such business or occupation for a period of thirty days from such commencement, or where he has made an application within that period for the grant of a licence to him, until the licence is granted to him or he is informed in writing that a licence cannot be granted to him.

[Provided further that nothing in this sub-section shall apply to the dealers in tail feathers of peacock and articles made therefrom and the manufacturers of such article.]

*Explanation.* - For the purpose of this section, "eating-house" includes a hotel, restaurant

Dealings in trophies and animal articles without license is prohibited and so on.

You have to maintain records, restriction of transportation of wildlife.

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**[CHAPTER VA]**  
**Prohibition of Trade or Commerce in Trophies,  
Animal Articles, etc. derived from certain Animals.**

**49A. Definitions.** - In this Chapter, -

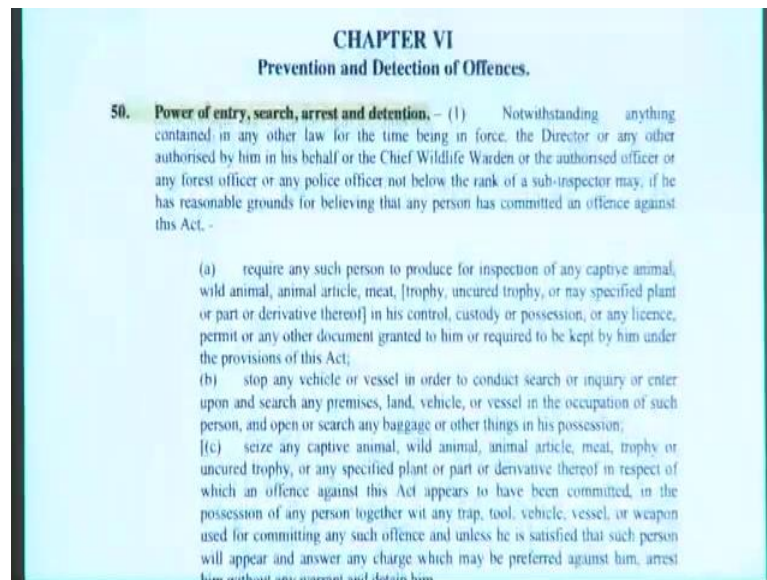
- (a) "scheduled animal" means an animal specified for the time being in Sch. I or Part II of Sch. II;
- (b) "scheduled animal article" means an article made from any scheduled animal and includes an article or object in which the whole or any part of such animal [has been used but does not include tail-feather of peacock, an article or trophy made therefrom and snake venom or its derivatives;]
- (c) "specified date" means -
  - (i) in relation to a scheduled animal on the commencement of the Wildlife (Protection) Amendment Act, 1986, the date of expiry of two months from such commencement.
  - (ii) in relation to any animal added or transferred to Sch. I or Part II of Sch. II at any time after such commencement, the date of expiry of two months such addition or transfer;
  - (iii) in relation to ivory imported into India or an article made from such ivory, the date of expiry of six months from the commencement of the Wildlife (Protection) Amendment Act, 1991.]

Prohibition of trade or commerce and trophies, animal articles etcetera derived from certain animals.

So, these are different prohibitions or different provisions that are made available in the act.

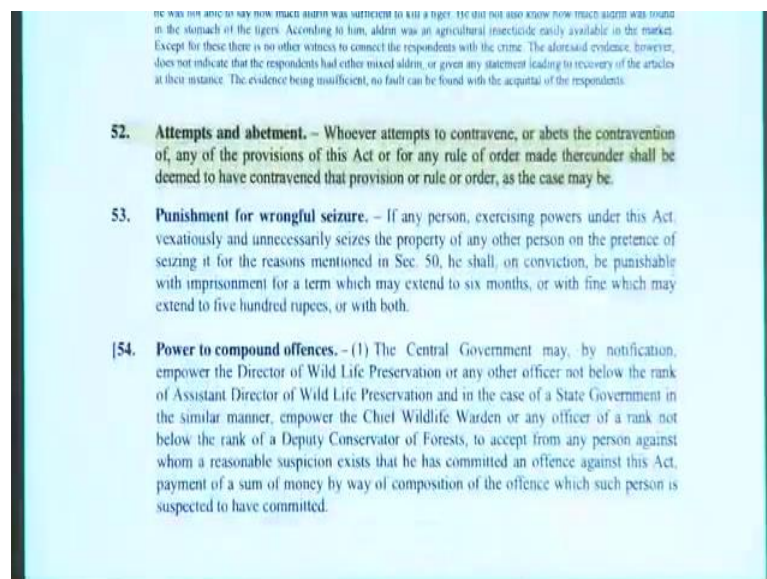


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Now, to prevent it and detect offenses, the forest-officers are given the power to entry, search, arrest and detain people. Then, there are certain penalties that have also been prescribed.

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And, this is an important section. “Attempts and abetment – whoever attempts to contravene or abets the contravention;” so, you are not you have not contravene any provision, but you are just attempting to do it. So, you have not hunted an animal, you are just attempting to hunt it or you are helping somebody to attempt to hunt it. So,

whoever attempts to contravene or abets the contravention of any provisions of this act or for any rule or order made there under shall be deemed to have contravened that provision or rule or order, as the case may be.

So, you are so, basically what this is talking about is that you did not fire the gun, you did not kill the animal, you just went together with the hunter, and you told him where the animal was located. But, in this case, because you have abetted the contravention of a provision of this act, you shall be guilty of having contravened the act itself. So, it shall be deemed to be deemed to have contravened that provision or rule or order, as the case may be.

So, even if you are hunting somebody, to contravene the provisions of this Act, then you will be guilty or deemed to be guilty of that particular contravention itself. You cannot take a take a plea that I did not fire the gun. Or if you are attempting to do something wrong; so, for instance, you went into the forest to say hunt a tiger, but you were not able to hunt the tiger; before you could hunt this tiger, you were caught; but in this case, the same clause will apply, as if you have already hunted the tiger because the attempt is taken to be equal to the contravention.

So, these are the important provisions of the Wildlife Protection Act.

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Forest (Conservation) Act, 1980 with Amendments Made in 1988 10/08/15 07:21

Regulatory act, not prohibitory; regulates diversion of forest land for non-forestry purposes

**Forest (Conservation) Act, 1980 with Amendments Made in 1988**

Max punishment: imprisonment for 15 days.  
Before 1980, 1.5 lakh hectares diverted every year; reduced to 0.34 lakh hectares per year now.

An Act to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto.

TP Narayan v Uoi 1970: preamble is key to open the mind of legislature: SC

Be it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:-  
Ambica Quarry Works v State of Guj 1987 SC: Deforestation and eco imbalance is social menace and should be prevented.

**1. Short title, extent and commencement.**

- (1) This Act may be called the Forest (Conservation) Act, 1980.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.  
Remember date: one day after UN Day 1980 -> powers moved to Central govt.
- (3) It shall be deemed to have come into force on the 25th day of October, 1980.

**2. Restriction on the dereservation of forests or use of forest land for non-forest purpose.**

Next, we have a look at the Forest Conservation Act, 1980.

Now, Forest Conservation Act is a very simple act, it is very small act.

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**2. Restriction on the dereservation of forests or use of forest land for non-forest purpose.**  
No definitions in Sec 2; only restrictions  
Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing-

- (i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall **cease to be reserved**;
- (ii) that any forest land or any portion thereof may be used for any non-forest purpose;
- (iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government;
- (iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reafforestation.

Once assigned, cannot be reassigned?  
So every felling, even under working plan, needs Central govt permission: WP and mgmt plans disposed of by Regional office, manned by regional CCF as representative of Central govt.  
*Explanation* - For the purpose of this section, "non-forest purpose" means the breaking up or clearing of any forest land or portion thereof for-

“An act to provide for conservation of forests and for matters connected therewith or ancillary or incidental thereto” as simple as that. So, this is an Act for the conservation of forest.

Now, what does this say Section 2?

Section 2 is also something that we had referred to before in the Godavarman case. Restriction on dereservation of forest or use of forest land for non-forest purpose. So, there is a restriction on the dereservation of forest; so, you cannot, if there is a forest that you cannot say that it has now become a dereserved area or use of forest land for non-forest purpose. So, you cannot say that this land is still a forest, but I am using it for agriculture, or say I am using it for tourism, you cannot do that. There are restrictions.

Now, what are the restrictions?

Notwithstanding anything contained in any other law for the time being enforce in a state, no State Government or authority – now, this is a central Act and it says that no State Government or other authority shall make except with the prior approval of the Central Government, any order directing that any reserved forest or any portion thereof shall cease to be reserved.

(Refer Slide Time: 57:34)

(ii) that any forest land or any portion thereof may be used for any non-forest purpose;

(iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government;

Once assigned, cannot be reassigned?

(iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reforestation.

So every felling, even under working plan, needs Central govt permission. WP and mgmt plans disposed of by Regional office, manned by regional CCF as representative of Central govt.

Explanation - For the purpose of this section, non-forest purpose means the breaking up or clearing of any forest land or portion thereof for-

(a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants;

(b) any purpose other than reforestation;

Get approval from regional CCF for annual felling, even after approval of working plan.

<http://envfor.nic.in/region/forest/forest2.html> Page 1 of 3

Regional office will seek prior clearance of ministry for clear felling of forest with density above 0.4, or in

Any forest land or any portion thereof may be used for any non-forest purpose; any forest land or portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation agency or any other organisation not owned managed or controlled by the government; that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land, or portion for the purpose of using it for afforestation, as simple as that.

And, then this act further gives an explanation. So, explanation is for the purpose of this section - non-forest purpose means breaking up or clearing of any forest land or portion thereof for – the cultivation of tea, coffee, spices, rubber, palm, oil-bearing plants, horticultural crops or medicinal plants. So, essentially if you are saying that I am cutting these trees and I am going to grow a palm plantation; so, is that permitted? Answer is no, because a growing of a palm plantation is a non-forestry activity under this act.



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clearing of any forest land or portion thereof for-

(a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants; Term forest not applicable for plantations raised on pvt lands except notified pvt. forests. However, pvt plantation governed by state acts and rules. In notified pvt forests, WP / mgmt plan should be approved by Gol.

(b) any purpose other than reforestation;

Get approval from regional CCF for annual felling, even after approval of working plan.  
http://envfor.nic.in/legal/forest/forest2.htm Page 1 of 3

Regional office will seek prior clearance of ministry for clear felling of forest with density above 0.4, or in size > 20 Ha in plains and > 10 Ha in hilly region.

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Forest (Conservation) Act, 1980 with Amendments Made in 1988 19/08/15 07:21

UoI v Kamath Holiday Resorts 1996 SC: act applicable to UT also.

but does not include any work relating or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes. Only small dams submerged area < 1Ha

**3. Constitution of Advisory Committee.**

(Refer Slide Time: 58:40)

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**3. Constitution of Advisory Committee.**

The Central Government may constitute a Committee consisting of such number of persons as it may deem fit to advise that Government with regard to-

(i) the grant of approval, under Section 2; and

(ii) any other matter connected with the conservation of forests which may be referred to it by the Central Government. Act against govt., not against pvt. persons

**3A. Penalty for contravention of the provisions of the Act.**

Abetting is offence under FCA and WPA, but not under IFA.  
Whoever contravenes or abets the contravention of any of the provisions of Section 2, shall be punishable with simple imprisonment for a period which may extend to fifteen days.  
No provision for realisation of damages: Khanna Construction v State of Bihar HC 1994. Damage to be recovered under IFA.

**3B. Offences by the Authorities and Government Departments.**



(Refer Slide Time: 59:06)

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(ii) any other matter connected with the conservation of forests which may be referred to h by the Central Government.

Act against govt., not against pvt. persons

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No provision for realisation of damages: Khanna Construction v State of Bihar HC 1994. Damage to be recovered under IFA.

**3B. Offences by the Authorities and Government Departments.**

(1) Where any offence under this Act has been committed -

(a) by any department of Government, the head of the department; or

(b) by any authority, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the authority for the conduct of the business of the authority as well as the authority;

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and

Or any other purpose other than re-afforestation, but does not include any work relating to or ancillary to conservation, development and management of forest and wildlife namely; so, certain activities are permitted and these are establishment of check-posts, fire lines, wireless communication, construction of fencing, bridges, culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes.

And, the contravention is very simple, the penalty for the contravention is very simple. Section 3A whoever contravenes or abets the contravention of any of the provisions of Section 2, shall be punishable with simple imprisonment, for a period which may extend to 15 days. Just 15 days of simple imprisonment; but just because the scope of this act is very wide so, this has been extremely effective in protecting our forests, because it stops the official conversion or official handing over of forest for non-forest purposes.

So, in today's lecture, we had a look at three acts of forest protection.

We looked at the Indian Forest Act 1927, the Wildlife Protection Act 1972 and the Forest Conservation Act 1980, and especially those provisions that are helping us to protect our forests. So, that is all for today.

Thank you for your attention [FL].