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MADRAS RECORD OFFICE

Government of Madras

Revenue DEPARTMENT

pro. G.O. No. ~~B.P. No.~~ 479 Press ~~Mis.~~

Dated 5-4 1876 195

Not to be folded or roughly handled

Proceedings of the Madras Gover ent, Revenue Department,
5th April 1 76.

No. 42. Read the following Proceedings of the Board of Revenue, dated 11th February 1876, No. 413, (Forest No. 16) :—

Read the following letter from A. McC. WEBSTER, Esq., Collector of South Canara, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated Charmady, 21st September 1875, No. 1,816 :—

I HAVE the honor to forward for the information of the Board, and for submission to Government if considered necessary, my decision in the case of claims brought to jungles in the north-eastern corner of the Upperangadi Taluq of this district. The block may be roughly described on the Trigonometrical Survey map as bounded on the west by a line drawn due north from Beltangady, on the north and east by the Mysore Frontier, and on the south by the high road from Beltangady to Charmady.

2. I also enclose a Memorandum showing the principles on which the inquiry was held, and the general reasons for my decision.

3. I anticipate that the claims to jungles in the other blocks already prepared by my Deputy Conservator, and in others which he will hereafter send in, will be very much of the same nature, and that the only jungles which if now claimed by Wurgdars in the villages concerned will be adjudged to belong to Government will be those entered in the lists submitted to Mr. Harris in Fasli 1232, those attached to Sirkar Gueny estates, and some few perhaps to which clearly unfounded claims will be made.

4. As I recede from the ghauts the claims will, I anticipate, be more numerous because for smaller extents, and will chiefly be made to the Nettikut (Nirnetty, crest of hill) of the surrounding hills.

5. It seems to me therefore to be advisable that I should refer this my first decision for the information of the Board, in order that if my inquiry has not been made in accordance with the intentions of Government, or if my decision is opposed to the principles enunciated in the G. O. of 23rd October 1874, No. 1,361, Revenue Department, further instructions may be issued to me. The Wurgdars will have a right of appeal against any order of mine antagonistic to their interests; but, unless I report my decision for the information of the Board, it will, if adverse to the lately conceived claims of Government, not be subject to review.

6. I beg to call particular attention to my decision in the case of Aya Pandy's claim to Sale Male (*vide* paragraphs 7 and 8 of my decision), as I have, in carrying out what I conceive to be the intentions of Government, admitted his right to an extensive tract of jungle as it was entered in his sale deed; because his predecessors in occupation of the wurg enjoyed it, and because in the old returns submitted in Fasli 1232 it was not entered as a Government jungle. I have admitted the claim on these grounds, notwithstanding that according to his statement the Munsif's Court about the year 1851 refused to put him in possession of the jungles.

7. The Board will perceive that I have found that the Government have no right to by far the greater portion of the jungles, and that the right to even this very limited extent has been acquired by the absence of claims or by the escheat of estates to Government. This was however the opinion of the early Collectors

of the district. The returns submitted to Mr. Harris have only recently been discovered, *i.e.*, since the receipt of the G. O. of 23rd October 1874, No. 1,361, Revenue Department; and those returns have materially influenced my decision with reference to the ghaut forests, as they clearly show what were the former claims of the people before their property in these jungles was restricted.

8. The jungles hitherto inspected by me cannot yet be worked at a profit as there is no water carriage, and as the expensive land-carriage would prevent competition with Malabar timber, or timber from more accessible localities in this district. As my inquiries extend, and I get to jungles in easily worked parts of the district, I will submit proposals for leasing any private jungles that it would be expedient to conserve.

9. Although the jungles I have visited cannot be now profitably worked, they fringe the head waters of the Netrawathy, and would if carefully preserved grow a quantity of good timber which might hereafter become of value. They have since the indiscriminate cultivation of kumeri was stopped got a fair start, and it seems a pity that they should now be destroyed. However, they have been found to be private property, and it only remains to consider whether, in the interests of the country generally, this destructive species of cultivation should continue to be restricted. The Malekudies formerly in the habit of cultivating kumeri have not taken up rice lands for themselves, or are working as laborers on their Moolgar's rice lands, so that kumeri is not so necessary here as it is in the Kundapur Taluq. As the jungles are private property, the cultivation can only be restricted by a Forest Law, or by the imposition of a high rate of assessment. Either of these measures will interfere with rights of property; but, as the question is one of public good, I have the honor to request the attention of the Board to the subject.

10. I am continuing my inquiries into claims in other blocks, and therefore beg that any further instructions which the Board or Government may consider it necessary to send me may be communicated as early as convenient.

ENCLOSURE No. I.

MEMORANDUM.

GOVERNMENT in paragraph 8 of their Proceedings of 23rd October 1874 affirmed that there was no sufficient grounds for declining to accept in its literal sense the statement of Sir T. Munro, that "the only land in Canara that can in any way come under the description of Sirkar land is unclaimed waste."

2. In the same paragraph they were of opinion that the proposal to call for and register all titles to land would be wrong in principle and hard on the people, if followed out to its legitimate conclusion of declining to recognize private property in all cases in which no written title was forthcoming, or the title produced appeared to be defective.

3. In paragraph 10 of the same Proceedings, the Collector was directed to submit proposals for demarcating valuable forests "admittedly" the property of Government.

4. In paragraph 4 of their Proceedings of the 20th February 1875, Government, in answer to a reference from the Collector, directed that the Deputy Conservator should prepare a list of forests which it would be desirable to demarcate, and that on the receipt and scrutiny of the list by the Collector that officer should issue notices calling for claims to the jungles.

5. On claims being preferred they were to be inquired into by the Collector, "and no claim that was not absolutely without foundation was to be rejected."

6. The Deputy Conservator of Forests has submitted lists of jungles and rough maps of blocks in the Upperangady Taluq situated between the slopes of the Kudremookh and the Manjarabad Ghaut road. Notices have been issued and claims have been, and are still being, received. The time having expired for the presentation of claims to the jungles in Blocks I. and II., I have commenced my inquiry thereon.

7. I thought it better not to strike any of the jungles out of Mr. Cherry's list, as it was of importance to know what minor forests would be claimed.

8. The effect of the Government decision quoted in the 1st paragraph of this Memorandum is to re-affirm the old principle that *prima facie* all land is private property, and that only unclaimed waste, or land the claims to which were absolutely without foundation, could be declared the property of Government.

9. I will now refer to paragraphs 98, 99, and 100 of Mr. Robinson's Minute published in the Board's Proceedings, dated 21st March 1871, No. 1,222. Mr. Harris' orders were issued some months before the receipt of the final orders of Government, but he seems to have anticipated those orders as quoted in paragraph 96 of the above Minute. The vernacular orders issued to the Tahsildars *directed* them to inquire and report what Government jungles there were in their respective taluqs, and the number of good trees growing therein.

10. In paragraph 103 of the Minute, allusion is made to a letter from Mr. Harris in which he states that his inquiries as to the Government Forests reserved from ancient times as Royalties was still (in May 1823) going on. It does not appear that the final result was ever reported to the Board.

11. All the records of the Collector's office having been destroyed in the Coorg insurrection, the original returns submitted from the taluqs in accordance with Mr. Harris' vernacular orders have been lost; but I have obtained from the taluq records the office copies of the returns submitted. The return for this part of the district which originally belonged to the old Bantwal Taluq could not be found at first, but on a more thorough and careful search the returns submitted to the taluq by the village officials have quite recently been discovered. Their genuineness is unimpeachable. The office copy of the Tahsildar's general return for the taluq, which was presumably based on the magany returns, has not however been found.

12. From these returns it appears that in the portion of the present Upperangady Taluq to the north of the Coomardary river there were at that time only eleven Government jungles.

13. The following are translations of the returns submitted from the Narsaihally and Bangady maganies in which Blocks I. and II. lie. I also subjoin a translation of the Mahazir-nama given by the Potails of the Bangady magany:—

Detailed List of Government Jungles in Narsenhally Magany, Bantwal Taluq, Fusli 1232, as dictated by Potails on the 23rd January.

No.	Villages.	Names of the Jungles.	What adjoins (each jungle) on the east, west, north and south.	Boundaries.	Trees standing in the Jungle—Teak, Blackwood trees, Jack trees, Poon or Soora Poon trees also.	Signatures of the Potails.
1	Nada village...	......	...	...	......	(Signed) Derappa Ajri.
2	Navoor...	......	...	...	......	(„) Koti Pergade
3	Budagubhaga.	......	...	...	......	Marks of Annaoo Pauwale.
4	Surya...	......	...	...	......	Do. Dorahmookarily.
5	Suvake village.	......	...	...	......	Do. Jadee Naika.
6	Laila village...	......	...	...	......	Do. Dugganaik.

NOTE.—" In our respective villages, there are no sirkar, registered Sirkar teak trees. There is no Sirkar paisari (waste) land, but only places included in our wargs." This blank return is signed by the village Accountant.

Detailed List of Government Jungles in Bantwal Taluq, Fasli 1232.

No.	Maganies.	Names of Jungles.	What adjoins (each jungle) on the east, west, south and north and boundaries.	Trees standing in the Jungle.			
				Teak.	Black-wood.	Jack.	Poon.
1	Bangady ...	...	...	...	...	...	...
2	Bellangady ...	...	...	...	...	...	...

(Signed) SHANBOGUE SUBBIAH.

To the Company's Government.

Mochilka (Statement) given by Gopala Hebbara, Potail of Malevantige village; Soobbaraya, Potail of Mitta Bagil village; Padma Padwala, Potail of Kadiruddyavara village; Narnappa, Potail of Kasba Bangady; Timmappa Malla, Potail of Indabettoo village; Antappajri, Potail of Belloor Kanapady; Ammoo Malla, Potail of Baraya Kanyadi village; Ammoo Shetty, Potail of Mundabettoo village, and Potails of other villages in Bangady magany; this 25th day of February, Fasli 1232.

Soobbaya, Shanbogue of this magany, having informed us of the receipt of a takid to report the details of Sirkar jungles, their boundaries, the description of teak (and other) trees therein, the said Magany Shanbogue Soobbaya having asked us to give the information in writing, and as he also read the takid to us, we represent as follows:—In this magany there are no Sirkar jungles but only males (forests) attached to the cultivation in our respective estates. In this magany we get leaves and wood from males owned by us for the aid of cultivation of estates, and there is no Sirkar jungle land here. If hereafter it should appear on inquiry that Sirkar jungles do exist we will give an answer for it and will abide by Sirkar orders. Thus we have executed this mochilka.

Marks of Timmappa Malla.	(Signed) Padma Padwala.
Mark of Narnappa.	(,,) Antappajri.
(Signed) Gopala Hebbara.	(,,) Ammoo Shetty.
(,,) Soobbaraya.	(,,) Ammoo Malla.

14. This above will show what was the public opinion at that time about the rights of Government to the forests; but it must be remembered that these maganies are situated under the ghauts, [illegible] the ghauts [illegible] to the Mysore frontier. No particulars of the [illegible] jungles were given, but it was broadly stated that all the jungles and males (hill forests) in the maganies belonged to private parties, *i.e.*, to Wurgdars whose wurgs at that time, and for a century before—certainly on our acquisition of the country—were scattered through the jungles and even on the face of the ghauts.

14-A. In paragraph 108 of Mr. Robinson's Minute an extract is quoted which shows that in this (Bantwal) taluq some estates had [illegible] which produced peppers attached to them. Pepper only grows on the ghauts, [illegible] have been [illegible] forest estates.

15. Since that time, however, successively increasing restrictions have been imposed, and the present generation have in some cases lost the exclusive private possession of jungles, and some [illegible] Wurgdars have been using jungles in common with others, and with new [illegible]. In my inquiry whenever I have found a jungle used by more than one Wurgdar, and no [illegible] boundaries separating each one's portion exist, I have to avoid litigation [illegible] and entered the jungle as a village jungle for the use of the villagers [illegible] reserving their disposal.

16. [illegible] of the restrictions imposed for the last quarter of a century is that the [illegible] rights to the waste has in some cases been nearly destroyed. I have had cases [illegible] estates were sold, say, twenty-five years ago and in the sale-deeds the jungles [illegible] the cultivated portion of the land were mentioned and [illegible] defined. The estates have since, and recently again, changed hands and in some of the sale-deeds evidencing the later transactions the jungles and hills have been omitted and only the cultivated portion apparently sold. On my asking the reason of this, I have been informed that there was an impression that sale-deeds including forests or hills would not be registered; and I was even told that a former Mussalman Sub-Magistrate who was also Sub-Registrar had refused to register any deeds that included waste lands. Further, it has been the custom for many years whenever an estate is advertized to be sold by order of the Civil Courts to insert a notice in the District Gazette, either to the effect that if any Government land was included within the boundaries mentioned in the sale-notice the right of Government would not be prejudiced, or detailing the purely private land out of the extent specified in the sale-notice; this extent having been ascertained by the Tahsildar, and of course, under the view then held, excluding all forest land. I do not know whether the Sub-Registrar did refuse to register sale-deeds for waste lands; but there is no doubt that the impression got about, and I think the people had good reasons for considering that their right to waste and forest lands was denied by Government.

17. Although such recent purchasers have not in some cases got the jungles entered in their title-deeds, there is no doubt that formerly they were attached to their wurgs, and I have not therefore, in deciding on their claims, thrown them out by reason of their defective title, and have excluded such jungles from demarcation.

18. Although, as I have above stated, some jungles are now enjoyed by more than one Wurgdar, in by far the greater number of cases the Wurgdars have come forward and claimed particular jungles as attached to their wurgs. Some of the jungles are even now called by the family name of the owner of the wurg, others (where wurgs have been transferred) are entered in title-deeds; but most are simply recognized by the people as belonging to particular wurgs. I have been for the last week through a great number of the jungles, and all those that I have not set foot in, I have seen from commanding positions; I have questioned the people repeatedly as to the boundaries of each portion of jungle, and I have found them perfectly acquainted with each others boundaries.

18-A. I have found that until the kumeri restrictive order of 1860 was passed, kumeri was cut in the jungles of each wurg by Malekudies who used to work for the Wurgdars when required. For a long period after our acquisition of the country no assessment whatever was levied on such kumeri, and no kumeri sist was entered in the chittas of the wurgs. Indeed, there is no kumeri sist whatever in these maganies as is the case in the adjacent magany of Bylangady, part of which is in Block No. II., but has not been visited by me yet.

19. This payment of kumeri assessment by the Malekudies instead of by the Wurgdars was the result of the general negation of forest rights being inherent in the Wurgdars, and cannot, I think, be held by me as a proof that no such right existed. Moreover, the fact of no kumeri sist appearing in the chittas of the wurgs as in the neighbouring magany will not militate against the claims of the Wurgdars (*vide* paragraphs 98 and 60 of Mr. Robinson's Minute.)

20. In many cases the people in now claiming jungles only ask for permission to use the jungles as hitherto, *i.e.*, for leaves, trees, firewood, &c., for themselves, and also to be allowed to cut kumeri therein. This would seem to show that they formerly had only an easement, and are only entitled to that now. It must, however, be remembered that there was formerly no market for the timber, other and more accessible localities being open to the Timber merchants, and that the only use they could possibly make of their private jungles was for leaves, firewood, and trees for their house building and for the cultivation of kumeri. The very moderation in the wording of their petitions shows that they are claiming no new rights, though their claims involve at the present day, when communications have been improved, the power to dispose of the produce of their jungles.

21. It is also perfectly clear that in most cases each Wurgdar had a particular jungle which was and is recognized by his neighbours as belonging to himself and his Malekudies alone.

22. Some of the villagers, especially those lying away from the actual line of ghauts, as a rule only claim to the Natikun of their wurgs. When questioned, they state that there may be Government land not included in the Natikun, but only an actual survey and demarcation can

show such land if it exists, which I consider very doubtful, especially after the very decided opinion of the villagers in Fasli 1232 before the people's rights were restricted. However, as they state that there may be Government land, I have in some of these cases directed the demarcation of such portions of jungles as may be found at the time of demarcation not to be in the Nettikut of any wurg, and in others have included the whole jungle as a village jungle, so that the villagers in the last cases will have kumki right up to their Nettikut, though not the right to dispose of the produce. Hereafter I shall submit recommendations for the disposal of these village jungles, some of which it will probably be found advisable to give up to the people without any reservation, or to demarcate and divide them so as to give the Wurgdars an interest in planting and conserving them.

23. From what I have seen, from the verbal inquiries I have made, and from the claim-petitions, depositions, and mahazarnamas that have been taken, I can come to no other conclusion than that the claims have all been made *bonâ fide*; that none of them are absolutely without foundation; and that a private right to particular jungles is in most cases acknowledged by the people, and has been sufficiently made out to be acknowledged by the Government. Furthermore, the returns submitted in Fasli 1232 show that the private right is not a recent allegation, but that at that time all the jungles were considered to belong to individuals; in fact, that there was not in the maganies any Sirkar land as defined by Sir T. Munro.

24. Such being my opinion, the only forests that can be reserved in these blocks are—

(1.) Those to which no claims have been preferred.

(2.) Those attached to Sirkar Gueny wurgs, the proprietary (mooly) right to which by the custom of the district technically vests in Government.

(3.) Jungles which are claimed or used by more than one person.

25. With reference to the first class of jungles defined above, although no claims have been preferred, and I have accordingly sanctioned their reservation, claims may hereafter be brought forward. In the case of a portion of the Bellalli jungles (*vide* paragraphs 16 to 31 of my decision) the reason for no specific claim having yet been preferred is that a portion of the wurg has been sold by the Mooligar. The purchaser thinks the assessment put by the sale-deed on his portion too high; he has not paid the arrears thereon, and wants to get off his purchase. He therefore will not claim any jungles that may by custom have been attached to his share. The seller, on the other hand, is afraid that as the wurg has not been regularly divided and the assessment apportioned his share may be sold for the arrears on the other share, and will not therefore apply for these jungles. He has therefore only claimed the jungles attached to the portion of the estate remaining in his possession. There are very extensive jungles attached to this wurg and known by the name of the Mooligar (the Belilli Hebbars) as the "Belilli Male". [illegible] they extend, with the exception of a few jungles belonging to another village, along the whole north and east sides of the [illegible] valley. Now, although the jungles have not been formally claimed, I know that they all belong to a wurg. For the present therefore I shall reserve these jungles until the seller and the purchaser have settled their differences.

26. As to the second class of jungles. The proprietary (mooly) right of the wurgs vests technically in Government, as no moolputta has been given. As forests are now valuable property, [illegible] there can be no objection to reserving the forests attached to these estates for Government, but the Gueny Wurgdar must be allowed to use the jungles for his private and agricultural purposes, though he will not be allowed to cut kumeri or sell the produce. This will allow the Forest Department to conserve the good trees.

26-A. Although I have resolved to assert the proprietary rights of Government to the forests attached to these Sirkar Gueny estates in the same manner as the rights of Government have been asserted in the Nerya Cardamom jungles, which also belong to a Sirkar Gueny estate, I must call attention to the remarks of the earlier Collectors on these estates quoted in Mr. [illegible] [illegible]. [illegible] Minute, in paragraph 119 of the Minute the Collector in 1830 remarks "that these Sirkar Gueny estates are always granted as mooly to any one who will pay the beriz fixed upon them, and that they will come under the denomination of private property."

Again, in paragraph 120 of the Minute, the Board directed that "it should be carefully made known throughout the district that the Government are anxious that proprietors *and Sirkar tenants* should enjoy the full benefit of the growth of Cassia (a jungle product) *as well as every other product within the boundaries of their estates.*" No moolputtas have as I have before stated been granted for the existing Sirkar Gueny estates, but many of them have belonged to families for generations, and are all but in name mooly estates. It may be, therefore, that I am wrong in asserting Government rights to the forests attached to these estates, as the precedent of the Nerya estate occurred before the opinions above quoted were brought prominently to notice. And the Government may now consider that such forests should be excluded from demarcation.

27. The third class of jungles as I have above stated have been ordered to be reserved as village jungles, because no exclusively private claims have been admitted by the villagers, and because it has been proved that they are used by several persons, and because the present villagers state that on examination some lists of Government jungle may be found therein.

28. I attach maps (to be returned) of the blocks as prepared by my Deputy Conservator from the old survey maps, and have marked therein the different jungles which have been reserved under one or other of the classes. I have not taken notice of the out-lying hills consisting of scrub or grass land lying between the numerous valleys of paddy cultivation, as they are all within the Nettikut (Nirnetty, crest of hill) of some wurg or other, and as such must belong under the old custom of the district to private persons. I must observe that the maps do not correctly show the cultivation which existed at the time they were prepared. The old garden and rice lands scattered through the jungles which were then existing have not in many cases been entered.

29. In conclusion, I subjoin a concise statement showing the number of, and when reported, the extent of the Government jungles in the district prepared from the returns submitted to Mr. Harris in Fasli 1232. The extent however is only an approximation and rather excessive.

———	Number of Government jungles and lands.	Extent of, when reported by Tahsildar.	
		Square Koss.	Square Mils.
Kasagode Taluq … … … … … … …	16	2·000	12·5000
Mangalore do. … … … … … … …	……	……	……
Upperangadi Taluq … … … … … …	……	……	……
Three Maganies formerly part of old Bantwal Taluq …	11	34·2187	213·8669
Udipi Taluq formerly Barcoor … … … …	28	51·3280	320·8002
Kundapur Taluq … … … … … … …	12	2·3745	14·8405
Total…	67	89·9212	562·0076

(Signed) W. McC. WEBSTER,
Collector.

ENCLOSURE No. 2.—Collector's decision on claims to Jungles.

ENCLOSURES Nos. 3 and 4.—Maps.

WITH his letter above recorded, Mr. Webster submits his decision on the claims brought to jungles in the north-east corner of the Upperangadi Taluq with a Memorandum setting forth the principles on which the inquiry was conducted and the grounds on which his decision was based, with the view to obtaining an expression of opinion as to whether they accord with the views and inten tions of Government. These papers will accordingly be submitted for the orders of Government.

2. Mr. Webster's report is very clear and his decisions appear to be in full accordance with the principles enunciated in G. O., dated 23rd October 1874, No. 1,361, which have received further confirmation by the discovery since their issue of the original returns submitted by the village officials in this part of the district in accordance with the vernacular order issued by Mr. Harris in 1823. These returns show that at that period almost all the jungles were claimed by some proprietor or other, and that in that portion of the Upperangadi Taluq to which Mr. Webster's inquiry relates, there were only eleven Government jungles. Mr. Webster, accepting the principle that nothing was to be taken as Government land to which any Wurgdar could advance a colorable claim, has dealt with all claims in a liberal spirit, acknowledging titles which appeared to have been valid in former times, even when the evidence of their existence in later times is defective, owing to the omission to mention jungles and hills in sale-deeds, probably in consequence of an impression having got abroad that the right was not recognized by Government. The special case referred to in paragraph 6 of Mr. Webster's letter is a good example of the manner in which proprietary rights formerly overridden and set aside under views which are now seen to be mistaken, are now being recognized and restored.

3. Mr. Webster appears to have recognized fully all the rights which the Government desire should be acknowledged. He has abandoned rights which have been claimed of late years; but it appears certain that recent claims on behalf of Government have not always been just, and cannot therefore be too soon abandoned. The Board are confident that these measures will have a beneficial effect on the properties, and from their manifestly just and liberal character, exercise an excellent influence on the feelings of the people.

4. The Board think that Mr. Webster is justified in asserting the rights of Government in the case of the Sirkar Gueny estates mentioned in paragraphs 25 and 25-A of the Memorandum. The holders of these estates will benefit by the distinct recognition of their right to use their jungles for private and agricultural purposes without molestation; but it seems unnecessary and undesirable to confer unlimited rights to the forests which apparently the tenures do not necessarily convey nor the holders expect. Even if former orders would give some colour to a claim that these tenants should be placed on complete equality with old proprietors, this step does not appear to have been ever practically taken, and there is no necessity for it now when the spirit of the treatment of jungles and forests has been so completely altered.

5. As a great proportion of the land that has hitherto been looked on as Government forest will certainly now be declared to be private property, the policy of securing control over forest tracts by obtaining leases on behalf of Government should receive careful attention. Where there are extensive tracts of fine timber, with capabilities for working them in future, the fact of their being at present inaccessible should not be held to obviate the necessity for endeavouring to secure leases for long terms, renewable in perpetuity. It may be possible now to secure leases that hereafter it would be very difficult to obtain.

If the terms take the shape of the payment of a comparatively small sum down and a stump fee according to the extent of felling hereafter, the first payment and some small establishment charges will be the only expenditure till regular working is found remunerative or desirable. Meanwhile, the possession of the lease will enable Government to restrict or interdict kumeri or any operations within the tract in question that may interfere with the natural distribution of the rainfall by extensive clearances near spring heads, along hill streams, &c. That Government should be able to regulate felling and clearing in many situations apart from mere forest conservancy considerations is most desirable, and it may be difficult to secure this power save by obtaining leases, where private proprietary rights have been acknowledged. To obtain the power of control by lease, appears in many respects preferable to the attempt to exercise it by such methods as prohibitive assessments, or stringent forest enactments, and with due discretion such lease arrangements could generally be made to pay any contingent expenses even when they are not, as they often would be, more or less highly remunerative.

6. Mr. Webster points out that in the tracts to which all claim on the part of Government is abandoned, there is nothing to prevent the resumption of kumeri clearings. This will be matter for regret, but it is possible that when Wurgdars are placed in absolute possession of their jungles, they may in their own interest put some check on kumeri clearings, and the Collector may perhaps be able to influence them to some extent in this direction.

As already observed, however, the Board consider that judicious leases afford the best means of protecting valuable forest tracts from reckless destruction, and the Collector's special attention should be directed to this point.

7. The Board have carefully considered the question whether any Royalty claims appertain to Government in respect of valuable timber growing in these extensive tracts of jungle which are about to be relinquished, and whether Government, whilst freely restoring proprietary rights which have been infringed, would not be justified in asserting seigniorial rights. Looking to the fact, however, that the only Royalty of the existence of which there is clear evidence in ancient times, *viz.*, the sandalwood monopoly, was deliberately abandoned in 1824, that the proprietary rights of Government in respect of teak and poonspars do not appear to have been ever satisfactorily established, and that the reservation of other descriptions of wood within the limits of private property is an innovation of comparatively recent date, the Board have come to the conclusion that no such claim is tenable.

(True Copies and Extract.)

(Signed) C. A. GALTON,
Acting Secretary.

No. 43. ORDER THEREON, 5th April 1876, No. 479.

Forests, No. 5.

THE Governor in Council concurs in the opinion of the Board of Revenue that Mr. Webster's decisions are entirely in

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accordance with the principles enunciated in G.O., dated 23rd October 1870; that they will have a beneficial effect on the properties of the Mul Wurgdars, and cannot fail, from their just and liberal character, to exercise an excellent influence on the feelings of the people.

2. But His Grace in Council would go further; he shares the Collector's hesitation in pressing the long disused rights of Government, as proprietor, over the woodlands on the estates known as 'Sirkar Gleny,' the occupants of which have held them for generations, and might, as the correspondence shows, have long since claimed the mul putta. He resolves therefore to direct that they be treated precisely as Mul Wurgdars in the matter of the forests belonging to their wurgs.

3. No pains should be spared to induce the owners of forests to make a lease of them to Government, where the Collector considers that such tracts would not otherwise be judiciously conserved.

(True Extract.)

(Signed) D. F. CARMICHAEL,
Secretary to Government.

To the Board of Revenue.
,, the Conservator of Forests.

Ed. W. [illegible]

FOREST No. 16.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 11th February 1876, No. 413.

Read the following letter from A. McC. WEBSTER, Esq., Collector of South Canara, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated Charmady, 21st September 1875, No. 1,816 :—

I HAVE the honor to forward for the information of the Board, and for submission to Government if considered necessary, my decision in the case of claims brought to jungles in the north-eastern corner of the Upperangadi Taluq of this district. The block may be roughly described on the Trigonometrical Survey map as bounded on the west by a line drawn due north from Beltangady, on the north and east by the Mysore Frontier, and on the south by the high road from Beltangady to Charmady.

2. I also enclose a Memorandum showing the principles on which the inquiry was held, and the general reasons for my decision.

3. I anticipate that the claims to jungles in the other blocks already prepared by my Deputy Conservator, and in others which he will hereafter send in, will be very much of the same nature, and that the only jungles which if now claimed by Wurgdars in the villages concerned will be adjudged to belong to Government will be those entered in the lists submitted to Mr. Harris in Fasli 1232, those attached to Sirkar Gueny estates, and some few perhaps to which clearly unfounded claims will be made.

4. As I recede from the ghauts the claims will, I anticipate, be more numerous because for smaller extents, and will chiefly be made to the Nettikut (Nirnetty, crest of hill) of the surrounding hills.

5. It seems to me therefore to be advisable that I should refer this my first decision for the information of the Board, in order that if my inquiry has not been made in accordance with the intentions of Government, or if my decision is opposed to the principles enunciated in the G. O. of 23rd October 1874, No. 1,361, Revenue Department, further instructions may be issued to me. The Wurgdars will have a right of appeal against any order of mine antagonistic to their interests; but unless I report my decision for the information of the Board, it will, if adverse to the lately conceived claims of Government, not be subject to review.

6. I beg to call particular attention to my decision in the case of Aga Pandy's claim to Sale Male (*vide* paragraphs 7 and 8 of my decision), as I have, in carrying out what I conceive to be the intentions of Government, admitted his right to an extensive tract of jungle as it was entered in his sale deed; because his predecessors in occupation of the wurg enjoyed it, and because in the old returns submitted in Fasli 1232 it was not entered as a Government jungle. I have admitted the claim on these grounds, notwithstanding that according to his statement the Munsif's Court about the year 1851 refused to put him in possession of the jungles.

7. The Board will perceive that I have found that the Government have no right to by far the greater portion of the jungles, and that the right to even this very limited extent has been acquired by the absence of claims or by the escheat of estates to Government. This was however the opinion of the early Collectors

of the district. The returns submitted to Mr. Harris have only recently been discovered, *i.e.*, since the receipt of the G. O. of 23rd October 1874, No. 1,361, Revenue Department; and those returns have materially influenced my decision with reference to the ghaut forests, as they clearly show what were the former claims of the people before their property in these jungles was restricted.

8. The jungles hitherto inspected by me cannot yet be worked at a profit as there is no water carriage, and as the expensive land carriage would prevent competition with Malabar timber, or timber from more accessible localities in this district. As my inquiries extend, and I get to jungles in easily worked parts of the district, I will submit proposals for leasing any private jungles that it would be expedient to conserve.

9. Although the jungles I have visited cannot be now profitably worked, they fringe the head waters of the Netrawathy, and would if carefully preserved grow a quantity of good timber which might hereafter become of value. They have since the indiscriminate cultivation of kumeri was stopped got a fair start, and it seems a pity that they should now be destroyed. However, they have been found to be private property, and it only remains to consider whether, in the interests of the country generally, this destructive species of cultivation should continue to be restricted. The Malekudies formerly in the habit of cultivating kumeri have not taken up rice lands for themselves, or are working as laborers on their Moolgur's rice lands, so that kumeri is not so necessary here as it is in the Kundapur Taluq. As the jungles are private property, the cultivation can only be restricted by a Forest Law, or by the imposition of a high rate of assessment. Either of these measures will interfere with rights of property; but, as the question is one of public good, I have the honor to request the attention of the Board to the subject.

10. I am continuing my inquiries into claims in other blocks, and therefore beg that any further instructions which the Board or Government may consider it necessary to send me may be communicated as early as convenient.

ENCLOSURE No. I.

MEMORANDUM.

Government in paragraph 8 of their Proceedings of 23rd October 1874 affirmed that there are no sufficient grounds for declining to accept in its literal sense the statement of Sir T. Munro, that "the only land in Canara that can in any way come under the description of Sirkar land is unclaimed waste."

2. In the same paragraph they were of opinion that the proposal to call for and register all titles to land would be wrong in principle and hard on the people, if followed out to its legitimate conclusion of declining to recognize private property in all cases in which no written title was forthcoming, or the title produced appeared to be defective.

3. In paragraph 10 of the same Proceedings, the Collector was directed to submit proposals for demarcating valuable forests "admittedly" the property of Government.

4. In paragraph 4 of their Proceedings of the 20th February 1875, Government, in answer to a reference from the Collector, directed that the Deputy Conservator should prepare a list of forests which it would be desirable to demarcate, and that on the receipt and scrutiny of this list by the Collector that officer should issue notices calling for claims to the jungles.

5. On claims being preferred they were to be inquired into by the Collector, "and no claim that was not absolutely without foundation was to be rejected."

6. The Deputy Conservator of Forests has submitted lists of jungles and rough maps of blocks in the Upperangady Taluq situated between the slopes of the Kudremookh and the Manjarabad Ghaut road. Notices have been issued and claims have been, and are still being, received. The time having expired for the presentation of claims to the jungles in Blocks I. and II., I have commenced my inquiry thereon.

7. I thought it better not to strike any of the jungles out of Mr. Cherry's list, as it was of importance to know what minor forests would be claimed.

8. The effect of the Government decision quoted in the 1st paragraph of this Memorandum is to re-affirm the old principle that *prima facie* all land is private property, and that only unclaimed waste, or land the claims to which were absolutely without foundation, could be declared the property of Government.

9. I will now refer to paragraphs 98, 99, and 100 of Mr. Robinson's Minute published in the Board's Proceedings, dated 21st March 1871, No. 1,222. Mr. Harris' orders were issued some months before the receipt of the final orders of Government, but he seems to have anticipated those orders as quoted in paragraph 96 of the above Minute. The vernacular orders issued to the Tahsildars directed them to inquire and report what Government jungles there were in their respective taluqs, and the number of good trees growing therein.

10. In paragraph 103 of the Minute, allusion is made to a letter from Mr. Harris in which he states that his inquiries as to the Government Forests reserved from ancient times as Royalties was still (in May 1823) going on. It does not appear that the final result was ever reported to the Board.

11. All the records of the Collector's office having been destroyed in the Coorg insurrection, the original returns submitted from the taluqs in accordance with Mr. Harris' vernacular orders have been lost; but I have obtained from the taluq records the office copies of the returns submitted. The return for this part of the district which originally belonged to the old Bantwal Taluq could not be found at first, but on a more thorough and careful search the returns submitted to the taluq by the village officials have quite recently been discovered. Their genuineness is unimpeachable. The office copy of the Tahsildar's general return for the taluq, which was presumably based on the magany returns, has not however been found.

12. From these returns it appears that in the portion of the present Upperangady Taluq to the north of the Coomardary river there were at that time only eleven Government jungles.

13. The following are translations of the returns submitted from the Narsanhally and Bangady maganies in which Blocks I. and II. lie. I also subjoin a translation of the Mahsar-nama given by the Potails of the Bangady magany:—

Detailed List of Government Jungles in Narsanhally Magany, Bantwal Taluq, Fusli 1232, as dictated by Potails on the 23rd January.

No.	Villages.	Names of the Jungles.	What adjoins (each Jungle) on the east, west, north and south.	Boundaries.	Trees standing in the Jungle—Teak, Blackwood trees, Jack trees, Poon or Soora Poon trees also.	Signatures of the Potails.
1	Nada village...	......	......	......	......	(Signed) Derappa Airi.
2	Navoor ...	......	......	......	......	(„) Koti Pergade.
3	Badugubhaga.	......	......	......	......	3 marks of Annoo Padwale.
4	Suriya ...	......	......	......	......	Do. Derammookanty.
5	Suraka village.	......	......	......	......	Do. Javoo Naika.
6	Laila village ...	......	......	......	......	Do. Duggannaju.

NOTE.—"In our respective villages, there are no Sirkar jungles and Sirkar teak trees. There is no Sirkar panzer (waste) land, but only places included in our Wargs." This blank return is signed by Shanbogue Anantaya.

Detailed List of Government Jungles in Bantwal Taluq, Fasli 1232.

No.	Maganies.	Names of Jungles.	What adjoins (each jungle) on the east, west, south and north and boundaries.	TREES STANDING IN THE JUNGLE.			
				Teak.	Black-wood.	Jack.	Poon.
1	Bangady ...	...	....	...	...	...	...
2	Bailangady ...	...	....	...	...	...	...

(Signed) SHANBOGUE SUBBIAH.

To the Company's Government.

Moochilka (Statement) given by Gopala Hebbara, Potail of Malevantige village; Soobbaraya, Potail of Mitta Bagil village; Padma Padwala, Potail of Kadiruddyavara village; Nannappa, Potail of Kasba Bangady; Timmappa Malla, Potail of Indabettoo village; Antappajri, Potail of Belloor Kanapady; Ammoo Malla, Potail of Baraya Kannyadi village; Ammoo Shetty, Potail of Moodabettoo village, and Potails of other villages in Bangady magany; this 25th day of February, Fasli 1232.

Soobbaya, Shanbogue of this magany, having informed us of the receipt of a takid to report the details of Sirkar jungles, their boundaries, the description of teak (and other) trees therein, the said Magany Shanbogue Soobbaya having asked us to give the information in writing, and as he also read the takid to us, we represent as follows:—In this magany there are no Sirkar jungles but only *males* (forests) attached to the cultivation in our respective estates. In this magany we get leaves and wood from males owned by us for the aid of cultivation of estates, and there is no Sirkar jungle land here. If hereafter it should appear on inquiry that Sirkar jungles do exist we will give an answer for it and will abide by Sirkar orders. Thus we have executed this moochilka.

Marks of Timmappa Malla. (Signed) Padma Padwala.
Mark of Nannappa. („) Antappajri.
(Signed) Gopala Hebbara. („) Ammoo Shetty.
(„) Soobbaraya. („) Ammoo Malla.

14. The above will show what was the public opinion at that time about the rights of Government to the forests; and it must be remarked that these maganies are situated under the ghauts and embrace all the ghaut forests up to the Mysore Frontier. No particulars of the owners of specified jungles were given, but it was broadly stated that all the jungles and *males* (hill forests) in the maganies belonged to private parties, *i.e.*, to Wurgdars whose wurgs at that time, and for probably centuries before—certainly on our acquisition of the country—were scattered through the jungles, and even on the face of the ghauts.

14-A. In paragraph 108 of Mr. Robinson's Minute an extract is quoted which shows that in this (Bantwal) taluq some estates had jungles which produced poonspars attached to them. Poonspars only grow on the ghauts, so these must have been ghaut forest estates.

15. Since that time, however, successively increasing restrictions have been imposed, and the present generation have in some cases lost the exclusive private possession of jungles, and some old (Kadim) Mooly Wurgdars have been using jungles in common with others, and with new cultivators. In my inquiry whenever I have found a jungle used by more than one Wurgdar, and no acknowledged boundaries separating each man's portion exist, I have to avoid litigation resolved to demarcate and reserve the jungle as a village jungle for the use of the villagers. Hereafter, I will submit recommendations regarding their disposal.

16. Another effect of the restrictions imposed for the last quarter of a century is that the old proprietary right to the waste has in some cases been nearly destroyed. I have had cases where the boundaries in which estates were sold, say, twenty-five years ago, and in the sale-deeds the jungles or Nettibettu (the hill adjoining the cultivated portion of the land) were mentioned and in some cases detailed. The estates have since, and recently again, changed hands and in some of the sale-deeds evidencing the later transactions the jungles and hills have been omitted and only the cultivated portion apparently sold. On my asking the reason of this, I have been informed that there was an impression that sale-deeds including forests or hills would not be registered; and I was even told that a former Mussalman Sub-Magistrate who was also Sub-Registrar had refused to register any deeds that included waste lands. Further, it has been the custom for many years whenever an estate is advertized to be sold by order of the Civil Courts to insert a notice in the District Gazette, either to the effect that if any Government land was included within the boundaries mentioned in the sale-notice the right of Government would not be prejudiced, or detailing the purely private land out of the extent specified in the sale-notice; this extent having been ascertained by the Tahsildar, and of course, under the view then held, excluding all forest land. I do not know whether the Sub-Registrar did refuse to register sale-deeds for waste lands; but there is no doubt that the impression got about, and I think the people had good reasons for considering that their right to waste and forest lands was denied by Government.

17. Although such recent purchasers have not in some cases got the jungles entered in their title-deeds, there is no doubt that formerly they were attached to their wurgs; and I have not therefore, in deciding on their claims, thrown them out by reason of their defective title, and have excluded such jungles from demarcation.

18. Although, as I have above stated, some jungles are now enjoyed by more than one Wurgdar, in by far the greater number of cases the Wurgdars have come forward and claimed particular jungles as attached to their wurgs. Some of the jungles are even now called by the family name of the owner of the wurg, others (where wurgs have been transferred) are entered in title-deeds; but most are simply recognized by the people as belonging to particular wurgs. I have been for the last week through a great number of the jungles, and all those that I have not set foot in, I have seen from commanding positions; I have questioned the people repeatedly as to the boundaries of each portion of jungle, and I have found them perfectly acquainted with each others boundaries.

18-A. I have found that until the kumeri restrictive order of 1860 was passed, kumeri was cut in the jungles of each wurg by Malekudies who used to work for the Wurgdars when required. For a long period after our acquisition of the country no assessment whatever was levied on such kumeri, and no kumeri sist was entered in the chittas of the wurgs. Indeed, there is no kumeri sist whatever in these maganies as is the case in the adjacent magany of Bylangady, part of which is in Block No. II., but has not been visited by me yet.

19. This payment of kumeri assessment by the Malekudies instead of by the Wurgdars was the result of the general negation of forest rights being inherent in the Wurgdars, and cannot, I think, be held by me as a proof that no such right existed. Moreover, the fact of no kumeri sist appearing in the chittas of the wurgs as in the neighbouring magany will not militate against the claims of the Wurgdars (vide paragraphs 68 and 69 of Mr. Robinson's Minute.)

20. In many cases, the people in now claiming jungles only ask for permission to use the jungles as hitherto, *i.e.*, for leaves, trees, firewood, &c., for themselves, and also to be allowed to cut kumeri therein. This would seem to show that they formerly had only an easement, and are only entitled to that now. It must, however, be remembered that there was formerly no market for the timber, other and more accessible localities being open to the timber merchant, and that the only use they could possibly make of their private jungles was for leaves, firewood, and trees for their house building and for the cultivation of kumeri. The very moderation in the wording of their petitions shows that they are not setting up new rights, though their claims involve at the present day, when communications have been improved, the power to dispose of the produce of their jungles.

21. It is also perfectly clear that in most cases each Wurgdar had a particular jungle which was and is recognized by his neighbours as belonging to himself and his Malekudies alone.

22. Some of the villagers, especially those living away from the actual foot of ghauts, at present only claim to the Nettibettu of their wurgs. When questioned, they say that there may be Government land not included in the Nettibettu, but only an actual survey and demarcation can

shew such land if it exists, which I consider very doubtful, especially after the very decided opinion of the villagers in Fasli 1232 before the people's rights were restricted. However, as they state that there may be Government land, I have in some of these cases directed the demarcation of such portions of jungles as may be found at the time of demarcation not to be in the Nettikut of any wurg, and in others have included the whole jungle as a village jungle, so that the villagers in the last cases will have kumaki right up to their Nettikut, though not the right to dispose of the produce. Hereafter I shall submit recommendations for the disposal of these village jungles, some of which it will probably be found advisable to give up to the people without any reservation, or to demarcate and divide them so as to give the Wurgdars an interest in planting and conserving them.

23. From what I have seen, from the verbal inquiries I have made, and from the claim-petitions, depositions, and mahazurnamas that have been taken, I can come to no other conclusion than that the claims have all been made *bonâ fide*; that none of them are absolutely without foundation; and that a private right to particular jungles is in most cases acknowledged by the people, and has been sufficiently made out to be acknowledged by the Government. Furthermore, the returns submitted in Fasli 1232 show that this private right is not a recent allegation, but that at that time all the jungles were considered to belong to individuals; in fact, that there was not in the maganies any Sirkar land as defined by Sir T. Munro.

24. Such being my opinion, the only forests that can be reserved in these blocks are—

(1.) Those to which no claims have been preferred.

(2.) Those attached to Sirkar Gueny wurgs, the proprietary (mooly) right to which by the custom of the district technically vests in Government.

(3.) Jungles which are claimed or used by more than one person.

25. With reference to the first class of jungles defined above, although no claims have been preferred, and I have accordingly sanctioned their reservation, claims may hereafter be brought forward. In the case of a portion of the Belilli jungles (*vide* paragraphs 16 to 31 of my decision) the reason for no specific claim having yet been preferred is that a portion of the wurg has been sold by the Moolgar. The purchaser thinks the assessment put by the sale-deed on the portion too high; he has not paid the arrears thereon, and wants to get off his purchase. He therefore will not claim any jungles that may by custom have been attached to his share. The seller, on the other hand, is afraid that as the wurg has not been regularly divided and the assessment apportioned his share may be sold for the arrears on the other share, and will not therefore apply for these jungles. He has therefore only claimed the jungles attached to the portion of the estate remaining in his possession. There are very extensive jungles attached to this wurg and known by the name of the Moolgar (the Belilli Hebbara) as the "Belilli Male." Indeed, they extend, with the exception of a few jungles belonging to another village, along the whole north and east sides of the Bangady valley. Now, although the jungles have not been formally claimed, I know that they all belong to a wurg. For the present therefore I shall reserve these jungles until the seller and the purchaser have settled their differences.

26. As to the second class of jungles. The proprietary (mooly) right of the wurgs vests technically in Government, as no moolputta has been given. As forests are now valuable property, I think there can be no objection to reserving the forests attached to these estates for Government, but the Gueny Wurgdar must be allowed to use the jungles for his private and agricultural purposes, though he will not be allowed to cut kumari or sell the produce. This will allow the Forest Department to conserve the good trees.

26-A. Although I have resolved to assert the proprietary rights of Government to the forests attached to these Sirkar Gueny estates in the same manner as the rights of Government have been asserted to the Nerya Cardamom jungles, which also belong to a Sirkar Gueny estate, I must call attention to the remarks of the earlier Collectors on these estates quoted in Mr. Robinson's Minute. In paragraph 110 of the Minute one Collector in 1820 remarks "that these Sirkar Gueny estates are always granted on moolputta to any one who will pay the beriz fixed upon them, and thus they will come under the denomination of private property."

Again in paragraph 120 of the Minute, the Board directed that "it should be carefully made known throughout the district that the Government are anxious that proprietors *and Sirkar tenants* should enjoy the full benefit of the growth of Cassia (a jungle product) *as well as every other product within the boundaries of their estates.*" No moolputtas have as I have before stated been granted for the existing Sirkar Gueny estates, but many of them have belonged to families for generations, and are all but in name mooly estates. It may be, therefore, that I am wrong in asserting Government rights to the forests attached to these estates, as the precedent of the Nerya estate occurred before the opinions above quoted were brought prominently to notice. And the Government may now consider that such forests should be excluded from demarcation.

27. The third class of jungles as I have above stated have been ordered to be reserved as village jungles, because no exclusively private claims have been admitted by the villagers, and because it has been proved that they are used by several persons, and because the present villagers state that on examination some lists of Government jungle may be found therein.

28. I attach maps (to be returned) of the blocks as prepared by my Deputy Conservator from the old survey maps, and have marked therein the different jungles which have been reserved under one or other of the classes. I have not taken notice of the out-lying hills consisting of scrub or grass land lying between the numerous valleys of paddy cultivation, as they are all within the Nettikut (Nirnetty, crest of hill) of some wurg or other, and as such must belong under the old custom of the district to private persons. I must observe that the maps do not correctly show the cultivation which existed at the time they were prepared. The old garden and rice lands scattered through the jungles which were then existing have not in many cases been entered.

29. In conclusion, I subjoin a concise statement showing the number of, and when reported, the extent of the Government jungles in the district prepared from the returns submitted to Mr. Harris in Fasli 1232. The extent however is only an approximation and rather excessive.

———	Number of Government jungles and lands.	Extent of, when reported by Tahsildar.	
		Square Koss.	Square Mile.
Kasagode Taluq	16	2·000	12·5000
Mangalore do.	......	......	......
Upperangadi Taluq	......	......	......
Three Maganes formerly part of old Bantwal Taluq	11	34·2187	213·8669
Udipi Taluq formerly Barcoor	28	51·3280	320·8002
Kundapur Taluq	*12	2·3745	14·8405
Total	67	89·9212	562·0076

(Signed) W. McC. WEBSTER,
Collector.

ENCLOSURE No. 2.—Collector's decision on claims to Jungles.

ENCLOSURES Nos. 3 and 4.—Maps.

WITH his letter above recorded, Mr. Webster submits his decision on the claims brought to jungles in the north-east corner of the Upperangadi Taluq with a Memorandum setting forth the principles on which the enquiry was conducted and the grounds on which his decision was based, with the view to obtaining an expression of opinion as to whether they accord with the views and intentions of Government. These papers will accordingly be submitted for the orders of Government.

2. Mr. Webster's report is very clear and his decisions appear to be in full accordance with the principles enunciated in G. O., dated 23rd October 1874, No. 1,301, which have received further confirmation by the discovery since their issue, of the original returns submitted by the village officials in this part of the district in accordance with the vernacular order issued by Mr. Harris in 1823. These returns show that at that period almost all the jungles were claimed by some proprietor or other, and that in that portion of the Upperangadi Taluq to which Mr. Webster's enquiry relates, there were only eleven Government jungles. Mr. Webster, accepting the principle that nothing was to be taken as Government land to which any Wurgdar could advance a colorable claim, has dealt with all claims in a liberal spirit, acknowledging titles which appeared to have been valid in former times, even when the evidence of their existence in later times is defective, owing to the omission to mention jungles and hills in sale-deeds, probably in consequence of an impression having got abroad that the right was not recognized by Government. The special case referred to in paragraph 6 of Mr. Webster's letter is a good example of the manner in which proprietary rights formerly overridden and set aside under views, which are now seen to be mistaken, are now being recognized and restored.

3. Mr. Webster appears to have recognized fully all the rights which the Government desire should be acknowledged. He has abandoned rights which have been claimed of late years; but it appears certain that recent claims on behalf of Government have not always been just, and cannot therefore be too soon abandoned. The Board are confident that these measures will have a beneficial effect on the properties, and from their manifestly just and liberal character, exercise an excellent influence on the feelings of the people.

4. The Board think that Mr. Webster is justified in asserting the rights of Government in the case of the Sirkar Oueny estates mentioned in paragraphs 26 and 26-A of the Memorandum. The holders of these estates will benefit by the distinct recognition of their right to use their jungles for private and agricultural purposes without molestation; but it seems unnecessary and undesirable to confer unlimited rights to the forests which apparently the tenures do not necessarily convey nor the holders expect. Even if former orders would give some color to a claim that these estates should be placed on complete equality with old proprietors, the step does not appear to have been ever practically taken, and there is no necessity for it now when the spirit of the treatment of jungles and forests has been so completely altered.

5. As a great proportion of the land that has hitherto been looked on as Government forest will certainly now be declared to be private property, the policy of securing control over forest tracts by obtaining leases on behalf of Government should receive careful attention. Where there are extensive tracts of fine timber, with capabilities for working them in future, the fact of their being at present inaccessible should not be held to obviate the necessity for endeavouring to secure leases for long terms, renewable in perpetuity. It may be possible now to secure leases that hereafter it would be very difficult to obtain. If the terms take the shape of the payment of a comparatively small sum down and a stump fee according to the extent of felling hereafter, the first payment and some small establishment charges will be the only expenditure till regular working is found remunerative or desirable. Meanwhile, the possession of the lease will enable Government to restrict or interdict Kumeri or any operations within the tract in question that may interfere with the natural distribution of the rainfall by extensive clearances near spring heads, along hill streams, &c. That Government should be able to regulate felling and clearing in many situations apart from mere forest conservancy considerations is most desirable, and it may be difficult to secure this power save by obtaining leases, where private proprietary rights have been acknowledged. To obtain the power of control by lease, appears in many respects preferable to the attempt to exercise it by such methods as prohibitive assessments, or stringent forest enactments, and with due discretion such lease arrangements could generally be made to pay any contingent expenses even when they are not, as they often would be, more or less highly remunerative.

6. Mr. Webster points out that in the tracts to which all claim on the part of Government is abandoned, there is nothing to prevent the resumption of Kumeri clearings. This will be matter for regret, but it is possible that when Wurgdars are placed in absolute possession of their jungles, they may in their own interest put some check on Kumeri clearings, and the Collector may perhaps be able to influence them to some extent in this direction.

As already observed, [illegible] the best means of protecting valuable forest tracts from reckless destruction, and the Collector's special attention should be directed to this point.

7. The Board have carefully considered the question whether any Royalty claims appertain to Government in respect of valuable timber growing in those extensive tracts of jungle which are about to be relinquished, and whether Government, whilst freely restoring proprietary rights which have been infringed, would not be justified in asserting seigniorial rights. Looking to the fact, however, that the only Royalty of the existence of which there is clear evidence in ancient times, viz., the Sandalwood monopoly, was deliberately abandoned in 1824; that the proprietary rights of Government in respect of teak and poonspars do not appear to have been ever satisfactorily established, and that the reservation of other descriptions of wood within the limits of private property is an innovation of comparatively recent date, the Board have come to the conclusion that no such claim is tenable.

(True Copies and Extract.)

Acting Secretary.

To the Secretary to Government, Revenue Department,
with three original enclosures, to be returned.
„ the Collector of South Canara.
Copy to the Conservator of Forests.

Rsd. W. J. Lewis.

Revised Proof

REVENUE DEPARTMENT.

MINUTE BY THE HON. SIR W. ROBINSON, K.C.S.I.

1. Mr. Webster has carried out the instructions of Government with remarkable ability and assiduity. He has visited and inspected the great majority of the hill and forest tracts which have come under his settlement, and conducted his careful and complete inquiry with the people about him and in the midst of the best means of arriving at a just decision in each individual claim.

2. I agree with the Board that his decisions must be accepted and ratified to the full, with the understanding that any further claims which may be brought forward shall receive careful inquiry and liberal construction, as it is the intention of Government to recognise and confirm all ancient rights, and to deal with the ancient proprietary of the district in a just and liberal spirit.

3. It is very remarkable to find that the more closely Sir Thomas Munro's decisions on the subject of property in Canara (when settling the district in 1800 and again dealing with the matter of the forest in 1822) are sifted, even at this distance of time, the more thoroughly they are verified and placed beyond cavil and challenge. He found the land, including forests and woodlands, the private property of the ancient landholders; and he traced back their title under the ancient law and constitution of the country, and distinctly found that,—except where escheats (for want of heirs, &c.) had occurred there was no State property in Canara whatever, the same condition applies to Malabar and he made his settlement with the ancient proprietary accordingly;—one of the most honorable, just, and successful settlements ever made in India.

4. Within a few years (1803 and 1804) after Sir Thomas Munro left the district, the Collector commenced a survey with a view to defining any State rights which might exist, but the measure was abandoned, as it was found that there was far too little unclaimed or State property to justify a harassing and profitless measure.

5. Under instructions of Sir Thomas Munro's Government, dated 17th October 1823, the Collector again instituted an inquiry into the conditions of property as respects forests and woodlands throughout the district, with results, now again brought to light, which are absolutely confirmatory of the ancient conditions of property as he (Sir Thomas Munro) had stated them (when at a time the early and best evidence was at his command) a quarter of a century before. Forest tracts, which are the property of Government, were found to be few and far between. These conditions still survive the misapprehension of the Bombay and later foresters, and we find the ancient proprietary still exercising those acts of ownership which centuries of undisturbed hereditary right had conferred,—rights which the Select Committee of the House of Commons (1812) so justly described in the words: "The lands in general appear to have constituted a clear private property more ancient and probably more perfect than that of England."

6. The Government have determined that the rights of the people shall be fully acknowledged, and we have in the present Collector a safe agent in giving effect to this resolution.

7. The attention of the Inspector-General of Registration should be called to the conduct of his subordinates in that district. The Collector has done right in neutralizing by his decision the baneful effect of their conduct.

8. I may notice that simultaneously with the investigation held by the Collector of Canara in 1823, full inquiry was likewise instituted in Malabar as to the State forests with precisely similar results. In the Wynaad country, for example, only twenty-four forest lots appeared to belong to Government in virtue of escheat for rebellion of the Pyche and others.

9. In paragraph 24 Mr. Webster states the principles which he had adopted and proposes should guide his further settlement as regards State rights.

10. The first is in accordance with the ancient conditions of property in the country, *viz.*, that where there are no claimants the land escheats. Where claims and usufructs have existed for

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No. 741

Revenue 1876, Dept.

Board of Revenue,
MADRAS.

Proceedings, 11th February 1876.

Despd. 18 Feby 76

S.C. No. 479, 5 April 1876

Received 19 Feby 76

FEBRUARY.
Forest No. 16.

Jungles in north-east corner of [illegible] Taluq, South Canara District.—Submitting for orders of Government, with Board's [illegible] Collector's letter reporting [illegible] claims brought to—

generations the [illegible]umption is that the title is complete, and under ancient conditions cannot be challenged.

11. The second proposition, *viz.*, the reservation (possibly summary assumption would more properly describe the operation) of the forest portions of Circar *gueny* (wurg) estates entirely contravenes the hitherto policy and faith of the country, and ~~may be thought,~~ by my Honorable Colleagues ~~a more questionable~~ basis of settlement. I beg to submit that Circar *gueny* estates are such as, at the cession of Canara in 1799, were found either entirely waste and abandoned by their ancient proprietors (dead or fled); or were still under cultivation by tenants (*guenygars*), the proprietors (*mulgars*) having disappeared. They were escheats to Government, in fact, as respects the fee simple only.

N.B.—*Gueny* means some title short of the ancient fee (*mul*) which vests in a private proprietor and in default of such proprietor in the State.

12. I went into this subject somewhat fully in my Minute, dated 3rd May 1875 (Proceedings of Government, Revenue Department, dated 23rd May 1875) on the lease of the Neriya Cardamom forests, to which (paragraphs 5 and 6) I again beg to refer. From the commencement of our rule these Circar *gueny* estates have been treated as units, not subject to dismemberment. Their occupants have been settled with both in the Revenue Settlement of 1800 and under the Harris *therao* settlement of 1820, on the same terms of integrity. So far as possible, all *gueny* estates were made over to (*mulpattahdars*) State devisees on the same terms of integrity and whether held under *mulpattah* or by customary and hereditary occupancy titles, they have been for three-fourths of a century held by their ancient occupancy tenants as "private properties" (Collector's report, dated 27th June 1820), in which all within the ancient land-marks of the wurg or estate are included. They have been treated by their occupants as hereditary and transferable property, and many have doubtless changed hands at the value of the entire estates, woodlands included. I think, therefore, that a summary reversal of the practice and faith of years and the adoption of a policy of dismemberment now will prove very hard on an ancient occupancy tenantry, and be looked on by the people as scarcely keeping faith with them. It is sufficiently evident that the Collector Mr. Webster (paragraph 20A of his Memorandum) doubts the propriety of a policy to which he considers the decision of the Government in the Neriya case binds him. I entirely sympathise with him, and I have no doubt that the feeling of the entire district will be found on the same side. I greatly regret the decision in the Neriya case.

13. We have had to deal with a large mass of property which was precisely in the same condition in Malabar under the escheat settlement. Thousands of small estates had become,—so far as the fee simple (*jenmom*) was concerned,—escheats shortly before the cession of the district in 1792; they were held by ancient occupancy tenants, whom we neither then nor since have ever disturbed in respect to any portion of the holding. In the escheat settlement we have dealt with these occupancy tenants and their descendants or devisees on the principle of non-dismemberment, and I hold that the same equity should be extended to the Circar *guenygars* of Canara. If it be desirable to take something additional from the occupancy tenants of Canara in consideration of the land-lord's share and title, by all means let us do so after complete investigation and hearing of the other side. But I cannot believe that it is expedient to carry out a policy which will, I fear, appear to the people as of summary confiscation after three-fourths of a century of acquiescence and encouragement of confidence. The same principle should govern the settlement of both *mul* and *gueny* estates as respects the integrity of the holding.

14. But a still further objection exists, as it seems to me, and I submit that the Collector's proposal cannot legally be carried out. These ancient occupancy tenants are in occupation of the entire wurg and exercise many rights, which cannot be summarily foreclosed. It is not, therefore, I submit, competent to Government summarily to eject any one of them from any portion of the wurg so held without their consent. The matter may perhaps be provided for in the proposed forest Law. But as the law now stands, it is not, I submit, in the power of the Collector to enforce his proposals. On this point it will be desirable to consult the law-officers.

15. I see no objection to the third proposal, *viz.*, that when the woods appear to have been in the possession and use of communities or of more than one person, they be treated as village or communal reserves.

16. The Collector should use his influence to prevent waste and secure conservancy until the law enables proper measures to be taken.

Proof

REVENUE DEPARTMENT.

MINUTE BY THE HON. R. S. ELLIS, C.B.

I AGREE with Sir W. Robinson entirely. In 1874 the Government resolved to adopt a generous policy. Further inquiry shows that this policy was not only generous, but also equitable; and I would not hesitate to carry it out to its fullest logical conclusion. I would not, therefore, mar this policy by treating exceptionally the Circar gueny lands. Having gone so far, we may well waive the unsubstantial rights in estates which were supposed to have devolved on Government by the disappearance of the ancient proprietors, but which have since that time been in undisturbed possession of State devisees. I would, in spite of our decision on the Neriya case (I am not sure that it is a precisely similar case), instruct Mr. Webster in the sense of Sir W. Robinson's Minute, and approve the other portions of Mr. Webster's report.

7th March 1876. (Signed) R. S. ELLIS.

Extract from Minute, dated 3rd May 1875.

Paragraphs 5. In the quasi-Zemindar settlement of Sir Thomas Munro and subsequently, the distinction of *muli* and *gueny* was entirely set aside as regards estates which fell to Government in default of proprietors. The settlement was made with *gueny* wurgdars on precisely the same principle as with *muli* wurgdars. So long as there was an old and prescriptive occupant to pay the ancient fixed revenue demand, the Government did not interfere with the title to the land which was or had always been private property. And each wurg, whether *muli* or *gueny*, was still treated as a unit, not subject to dismemberment and separation (as regards forest and woodlands). Ownerless and unoccupied estates and *gueny* wurgs were made over, *in their integrity*, to persons who would pay the demand and reclaim the estate; and every exertion was made to induce persons to take up deserted estates on *muli* tenure under the sound policy and pledge of the time. Such estates were granted under *mul-puttah* in the name of "any one who will pay the beriz on them, and thus they (a large number of gueny wurgs of the province) came under the same denomination as private properties (muli)" (from Collector, dated 27th June 1826). Hundreds of estates thus became *mul-puttah* estates under a permanent assessment throughout Canara. The Collector failed to find persons who would accept *mul-puttahs* (under the obligation of permanent assessment) for over-assessed or very waste and wild estates, but the ancient occupants were continued in possession, and have in general paid the revenue demand ever since. And they have very generally brought up these waste estates gradually to liquidate the full *therao* demand. The prescriptive enjoyment of such persons has always been respected as a title quite as good as the *mul-puttah* which more formally protects a large number of estates which were also *gueny* when the British rule commenced.

6. Again in the Harris *therao* settlement, no distinction was made between *gueny* and *muli* estates. And I gather that the estate under consideration (*The Nerya Wurg*) is one which pays and ever has paid the full *therao* demand under a settlement which practically ratified all previous settlements, though not formally promulgated. A *therao bherty* estate is not subject to any alteration of demand, whether nominally *muli* or *gueny*, according to the practice of the district from the commencement of our rule.

3rd March 1876. (Signed) W. ROBINSON.

No 479 S. 5 Apl 76

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37 *Extract from Minute, dated 3rd May 1875.*

Paragraphs 5 ~~and 6~~. In the quasi-Zemindar settlement of Sir Thomas Munro and subsequently, the distinction of *muli* and *gueny* was entirely set aside as regards estates which fell to Government in default of proprietors. The settlement was made with *gueny* wurgdars on precisely the same principle as with *muli* wurgdars. So long as there was an old and prescriptive occupant to pay the ancient fixed revenue demand, the Government did not interfere with the title to the land which was or had always been private property. And each wurg, whether *muli* or *gueny*, was still treated as a unit, not subject to dismemberment and separation (as regards forest and woodlands). Ownerless and unoccupied estates and *gueny* wurgs were made over, *in their integrity*, to persons who would pay the demand and reclaim the estate; and every exertion was made to induce persons to take up deserted estates on *muli* tenure under the sound policy and pledge of the time. Such estates were granted under *mul-puttah* in the name of "any one who will pay the beriz on them, and thus they (a large number of gueny wurgs of the province) came under the same denomination as private properties (muli)" (from Collector, dated 27th June 1826). Hundreds of estates thus became *mul-puttah* estates under a permanent assessment throughout Canara. The Collector failed to find persons who would accept *mul-puttahs* (under the obligation of permanent assessment) for over-assessed or very waste and wild estates, but the ancient occupants were continued in possession, and have in general paid the revenue demand ever since. And they have very generally brought up these waste estates gradually to liquidate the full *therao* demand. The prescriptive enjoyment of such persons has always been respected as a title quite as good as the *mul-puttah* which more formally protects a large number of estates which were also *gueny* when the British rule commenced.

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1 Mr. Webster has carried out the instructions of Government with remarkable ability and assiduity. He has visited and inspected the great majority of the hill and forest tracts which have come under his settlement, and conducted his careful and complete inquiry with the people about him and in the midst of the best means of arriving at a just decision in each individual claim.

2 I agree with the Board that his decisions must be accepted and ratified to the full, with the understanding that any further claims which may be brought forward shall receive careful inquiry and liberal construction, as it is the intention of Government to recognise and comfort all ancient rights, and to deal with the ancient proprietary of the district in a just and liberal spirit.

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4 Within a few years (1803 and 1804) after Sir Thomas Munro left the district, the Collector commenced a survey with a view to defining any State rights which might exist; but the measure was abandoned, as it was found that there was far too little unclaimed or State property to justify a harassing and profitless measure.

was

5 Under instructions of Sir Thomas Munro's Government, dated 17th October 1823, the Collector again instituted an inquiry into the conditions of property as respects forests and woodlands throughout the district, with results, now again brought to light, which are absolutely confirmatory of the ancient conditions of property as he (Sir Thomas Munro) had stated them when ~~he had~~ the early and best evidence at his command, a quarter of a century before. for a time Forest tracts, which are the property of Government, were found to be few and far between. These conditions still survive the ~~persecution~~ of the Bombay and later foresters, and we find, misappre-hension the ancient proprietary still exercising those acts of ownership which centuries of undisturbed hereditary rights had conferred,—rights which the Select Committee of the House of Commons (1812) so justly described in the words: "The lands in general appear to have constituted a clear private property more ancient and probably more perfect than that of England."

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10 ~~12.~~ The first is in accordance with the ancient conditions of property in the country, viz., that where there are no claimants the land escheats. Where claims and usufructs have existed for generations the presumption is that the title is complete, and under ancient conditions cannot be challenged.

11 ~~13.~~ The second proposition, *viz.*, the reservation (possibly summary assumption would more properly describe the operation) of the forest portions of Circar *gueny* (wurg) estates contravenes the hitherto policy and faith of the country, and may be thought by my Honorable Colleagues a more questionable basis of settlement. I beg to submit that Circar *gueny* estates are such as, at the cession of Canara in 1799, were found either entirely waste and abandoned by their ancient proprietors (dead or fled), or were still under cultivation by tenants (*guenygars*), the proprietors (*mulgars*) having disappeared; they were escheats to Government, ~~in fact~~, as respects the fee simple.

N.B.—Gueny means some title short of the ancient fee (*mul*) which vests in a private proprietor and in default of such proprietor in the State.

12 ~~14.~~ I went into this subject somewhat fully in my Minute, dated 3rd May 1875 (Proceedings of Government, Revenue Department, dated 23rd May 1875) on the lease of the Neriya Cardamom forests, to which (paragraphs 5 and 6) I again beg to refer. From the commencement of our rule these Circar *gueny* estates have been treated as units, not subject to dismemberment. They have been settled with both in the Revenue Settlement of 1800 and under the Harris *therao* settlement of 1820 on the same terms of integrity. for occu-pants So far as possible, all *gueny* estates were made over to (*mulputtadars*) State devisees on the same terms of integ-rity and whether held under *mulputtah* or by customary and hereditary occupancy titles, they have been for three-fourths of a century held by their ancient occupancy tenants as "private properties" (Collector's report, dated 27th June 1820), in which all within the ancient land-marks of the wurg or estate are included. They have been treated by their occupants as hereditary and transferable property, and many have doubtless changed hands at the value of the entire estates, woodlands included. I think, therefore, that a summary reversal of the practice and faith of years and the adoption of a policy of dismemberment now will prove very hard on an ancient occupancy tenantry, and be looked on by the people as scarcely keeping faith with them. It is sufficiently evident that the Collector Mr. Webster (paragraph 26A of his Memorandum) doubts the propriety of a policy to which he considers the decision of the Government in the Neriya case binds him. I entirely sympathise with him, and I have no doubt that the feeling of the entire district will be found on the same side.

~~15.~~ 13. We ~~have~~ had to deal with a large mass of property which was precisely on the same condition ~~to deal with~~ in Malabar under the escheat settlement. Thousands of small estates had become,—so far as the fee simple (*jenmom*) was concerned,—escheats shortly before the cession of the district in 1792; they were held by ancient occupancy tenants, whom we neither then nor since have ever disturbed in respect to any portion of the holding. In the escheat settlement we have dealt with those occupancy tenants and their descendants or divisees on the principle of non-dismemberment, and I hold that the same equity should be extended to the Circar *guenygars* of Canara. If it be desirable to take something additional from the occupancy tenants of Canara in consideration of the land-lord's share and title, by all means let us do so after complete investigation and hearing of the other side. But I cannot believe that it is expedient to carry out a policy which will, I fear, appear to the people one of summary confiscation after three-fourths of a century of acquiescence and encouragement of confidence. The same principle should govern the settlement of both muli and ~~guenygars~~ estates

16. But a still further objection exists, as it seems to me, and I submit that the Collector's proposal cannot legally be carried out. These ancient occupancy tenants are in occupation of the entire wurg and exercise many rights which cannot be summarily foreclosed. It is not, therefore, I submit, competent to Government summarily to eject any one of them from any portion of the wurg so held without their consent. The matter may perhaps be provided for in the proposed forest Law. But as the law now stands, it is not, I submit, in the power of the Collector to enforce his proposals. On this point it will be desirable to consult the law-officers.

17. I see no objection to the third proposal, *viz.*, that when the woods appear to have been in the possession and use of communities or of more than one person, they be treated as village or communal reserves.

18. The Collector should use his influence to prevent waste and secure conservancy until the law enables proper measures to be taken.

3rd March 1876. (Signed) W. ROBINSON.

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16

Mr Webster has carried out the instructions of Government with remarkable ability and assiduity. He has visited & inspected the great majority of the Hill & Forest tracts which have come under his settlement and conducted his careful and complete inquiry, with the people about him and in the midst of the best means of arriving at a just decision in each individual claim.

I agree with the Board that his decisions must be accepted and ratified to the full with the understanding that any further claims which may be brought forward shall receive careful inquiry and liberal construction as

As it is the intention of Government to recognize and comfort all ancient rights and deal with the ancient proprietary of the District in a just and liberal spirit

It is very remarkable to find that the more closely Sir Thomas Munro's decisions on the subject of property in Canara (when settling the District in 1800 and again dealing with the matters of the Forests in 1822) are sifted, even at this distance of time, the more thoroughly they are verified and placed beyond cavil and challenge. He found the land, including forests and woodlands, the private property of the ancient landholders and he traced back their title under the ancient law & Constitution of the Country –

and

and distinctly found that except where Escheats (for want of heirs &c) had occurred there was no State property in Canara whatever – the same condition applies to Malabar – and he made his settlements with the ancient proprietary accordingly – one of the most honorable, just and successful settlements ever made in India –.

Within a few years (1803 or 1804) after Sir Thomas Munro left the District the Collector commenced a survey with a view to defining any State rights which might exist – but the measure was abandoned as it was found that there was far too little unclaimed or State property to justify a harassing and profitless measure.

Under instructions of Sir Thomas Munro's Government of 17 October 1822 the Collector again instituted an

enquiry

inquiry into the conditions of property as respects forests and woodlands throughout the District – with results, now again brought to light, which are absolutely confirmatory of the ancient conditions of property as he (Sir Thomas Munro) had stated them (when he had the early & best evidence at his command) a quarter of a century before. – Forest tracts, which are the property of Govt., were found to be few and far between. These conditions still survive the persecution of the Bombay & later Foresters, and we find the ancient proprietary still exercising those acts of ownership, which centuries of undisturbed hereditary rights had conferred – rights which the Select Committee of the House of Commons (1812) so justly described in the words – "The lands in general appear to have constituted a clear private property more ancient & probably more perfect than that of England." –

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The Govt. have determined that the rights of the people shall be fully acknowledged and we have in the present Collector the safest agent in giving effect to this resolution.

The attention of the Inspector General of Registration should be called to the conduct of his subordinates in that District. The Collector has done right in neutralizing by his decision the baneful effect of their conduct.

I may notice that simultaneously with the investigation held by the Collector of Canara in 1823, full inquiry was likewise instituted in Malabar as to the State Forests with precisely similar results. – In the Wynaad Country for example, only 24 Forest lots appeared to belong to Govt. in virtue of escheat for rebellion (Ryche)

In para 24 Mr Webster states the principles which he has adopted and proposes should guide his further settlement as regards State rights.

The first is in accordance with the ancient conditions of property in the country that where there are no claimants the land escheats. Where claims and usufruct have existed for generations the presumption is that the title is complete and under ancient conditions cannot be challenged.

The second proposition viz the reservation (probably summary assumption would more simply describe the operation) of the forest portions of Circar Jenmy (wrong) Estates. This contravenes the hitherto policy and faith of the country and may be thought by my Honble

N.B. Jenmy means some title short of the [illegible] fee ([illegible]) which [illegible] in default of such proprietor in the State

Honorable Colleagues a more questionable basis of settlement. I beg to submit that Circar Jenmy Estates are such as at the Cession of Canara in 1799 were found either entirely waste and having been abandoned by their ancient proprietors (dead or fled) or were still under cultivation by tenants (Jenmygars), the proprietors (Mulgars) having disappeared - they were escheats to Government in fact as respects the fee simple.

I went into this subject somewhat fully in my minute dated 3rd May 1875 (Progs: of Govt. R.D. of 23 May 1875) on the lease of the Neriya Cardamom Forests, to which (Para 4 & 5) I again beg to refer. From the commencement of our rule these Circar Jenmy Estates have been treated as escheats not subject to disencumbrance.

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They have been settled with both in the Revenue Settlement of 1800 and under the Harris Therao Settlement of 1820 on the same terms of integrity. So far as possible all jenmy Estates were made over to (Mulpattadars) State devices on the same terms, and whether held under Mulpatta or by customary & hereditary occupancy titles they have been for three-fourths of a century held by their ancient occupancy tenants as "private proprietors" (Collector's Report 27 June 1820) in which all within the ancient land marks of the wary or Estate are included. They have been treated by their occupants as hereditary and transferable property and many have doubtless changed hands at the value of the entire Estates, woodlands included. I think therefore that a summary reversal of the practice and faith of years and the adoption

adoption of a policy of dismemberment now, will prove very hard on an ancient occupancy tenantry and be looked on by the people as scarcely keeping faith with them. It is sufficiently evident ~~that~~ the Collector Mr. Webster (Para 26 A of his Minutes) doubts the propriety of a policy to which he considers the decision of the Govt. in the Keniya Case binds him – ~~and~~ I entirely sympathise with him, and I have no doubt that the feeling of the entire District will be found on the same side.

We have had a large mass of property which was precisely in the same condition to deal with in Malabar under the Escheat Settlement. Thousands of small Estates had become so

So far as the fee simple (& *premium*) was concerned — Escheats shortly before the Cession of the District in 1792; they were held by ancient occupancy tenants, whom we neither then nor since have ever disturbed in respect to any portion of the holding. In the Escheat Settlement we have dealt with these occupancy tenants and their descendants or devisees on the principle of non-dismemberment, and I hold that the same Equity should be extended to the ancient *[illegible]* of Canara. If it be desirable to take something additional from the occupancy tenants of Canara in consideration of the landlord's [illegible] and title by all means let it be so after complete investigation and hearing of the other side. But I cannot believe that it is expedient to carry out a policy

policy which will, I fear, appear to the people one of summary confiscation after three-fourths of a century of acquiescence and encouragement of confidence. The same principle should govern the settlement of the [illegible] wargs.

But a still further objection exists as it seems to me and I submit that the Collector's proposal cannot legally be carried out. These ancient occupancy tenants are in occupation of the entire warg and exercise many rights which cannot be summarily foreclosed. It is not therefore, I submit, competent to Government summarily to eject any one of them from any portion of the warg so held without their consent. The matter may perhaps be provided for in the proposed Forest Law. But as the Law now stands, it is not, I submit, in the power of the Collector [illegible] to enforce his proposals – On this point it will be desirable to Consult the Law Officers.

I see no objection to the 3rd Proposal viz that, when the woods appear to have been in the possession and use of Communities or of more than one person, they be treated as Village or Communal reserves.

The Collector should use his influence to prevent waste & secure Conservancy until the Law enables proper measures to be taken.

Extract from Minute of 3d May 1875

Paras 5 & 6 In the general Ryotwar settlement of Sir Thomas Munro and subsequently, the distinction of Mula & Geni was entirely set aside as regards Estates which fell to Government in default of proprietors. The settlement was made with Geni wargdars on the same principle as with Mula wargdars belonging there was an old & prescriptive agreement to pay the ancient fixed rent demand, the Government dealt therefore with the title to the land which was had always been private property and each warg whether Mula or Geni was while treated as a unit not subject to dismemberment & dependencies (as regards forest and wood land).

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Again in the Harris therao Settlement, no distinction was made between geny and mul Estates. And I gather that the Estate under Consideration is one which pays and ever has paid the full therao demand — under a Settlement which practically ratified all previous Settlements though not formally promulgated — a therao batty Estate is not subject to any alteration of demand, whether nominally mul or geny, according to the practice of the district from the commencement of our rule.

R GO 5 April /76
No. 474

REVENUE DEPARTMENT.

No. 741

From Bd of Rev. Dated 11 February 1876.

FOR ORDERS.

See minute of [illegible]
supra [illegible]

I agree with S.W.W.
Robinson entirely —
In 1874 the Govt
resolved to adopt
a generous policy.
Further enquiry [illegible]

but this policy was not only generous but also equitable – and I would not hesitate to carry it out to its fullest logical conclusion. I would not therefore mar this policy by treating exceptionally the cases of enemy lands having gone to

for we may well waive the unsubstantial rights or states which were supposed to have devolved on such by the disappearance of the ancient proprietors – but which have since that time been in undisturbed possession of state devisees – I would

9-[illegible]

in spite of our decision
in the Chinga case —
(I am not sure that
this is precisely similar
case) without Mr
Webster in the sense
of the B^d Rubinson
Minute & approve
the other portions
of ~~his~~ report of Mr Webster

[illegible]
7 March 76

FOR ORDERS.

R.Ll.D 5 Ap/76
No 479

Ap 1/76 479

No 479 Rev. Dept

Read Progs Bd Rev — No 413 —
d/ 11-2-76.

The G. in C. concurs in the opinion of the Bd of Rev that Mr Webster's decisions are entirely in accordance with the principles enunciated in G.O. d/ 23^d Oct/70; that they will have a beneficial effect on the properties of the Mutt Vargdars, & cannot fail, from their just & liberal character, to exercise an excellent influence on the feelings of the people.

2 - But His Grace in C. would go further: he shares the Collector's hesitation in pressing the long disused rights of Govt, as proprietor, over the wood lands on the estates known as "Sirkar Gueny", the occupants of which hold them for generations, and might, as the correspondence shows, have long since claimed the mutt putta. He resolves therefore to direct that they be treated precisely as Mutt Vargdars in the matter of the forests belonging to their vargs.

14 S.L. Board of Rev. 1.
21 the Conservator of Forests

3 - No pains sh^d be spared to induce the owners of forests to make a lease of them to Govt, where the Coll^r considers that [illegible] that [illegible] can be judiciously [illegible] -der [illegible] 5 April 1876