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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.	960	Press
~~B.P. No.~~		~~Mis.~~
Dated	17. 7. 1876	196 .

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Not to be folded or roughly handled

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*Proceedings of the Madras Government, Revenue Department,
17th July 1876.*

No. 168. Read the following Proceedings of the Board of Revenue, dated 23rd June 1876, No. 1,630, Forest No. 56 :—

Read the following letters :—

From W. S. WHITESIDE, Esq., Colr. of North Arcot, to C. A. GALTON, Esq.,
Acting Secretary to the Board of Revenue, dated Palmanair, 5th June
1876, No. 254.

With reference to Board's Proceedings, dated 17th ultimo, No. 1,289, Forest No. 46, I have the honor to inform you that I think the agreement in question as it is now drafted will do very well except that in paragraph 5, the words "per acre" should be added after the words "shall not exceed twenty in number." It is very important that this addition should be made, for, as the document now stands, the forest officer can only reserve twenty trees *per block of two and four-fifths square miles*, and twenty trees over such a large area would of course be useless for purposes of reproduction, which is the object for which it is proposed to leave a certain number of trees standing.

2. The communal rights in the jungles in question are the same as in all other forests of the district, *viz.*, rights to graze, to gather leaves for manure, and to cut fuel and wood for agricultural implements. It, however, appears there are very few villages (and those small ones) to enjoy these privileges in these jungles, and, therefore, when one block is under clearance, another may be availed of for the exercise of the above rights.

From J. W. HANDLEY, Esq., Government Pleader, to C. A. GALTON, Esq.,
Acting Secretary to the Board of Revenue, dated Coonoor, 16th June
1876, No. —.

I HAVE the honor to acknowledge receipt of the Board's Proceedings noted in the margin forwarding a draft agreement between the Secretary of State
Dated 17th May 1876.

for India and the Napier Foundry Company, Limited, for an allotment of land in North Arcot for the manufacture of charcoal.

2. In the abstract of the letter of the Chairman of the Company given in the Proceedings of Government on which the Board's Proceedings were passed, it is stated that the Draft Agreement was prepared by the Government Solicitor. I apprehend that this is a mistake and that the draft was in fact prepared by Messrs. Barclay and Morgan as Solicitors for the Company, and I shall advise upon this assumption.

3. In my opinion the agreement in its present form does not sufficiently provide for the security of the rights of Government and for the maintenance of the communal rights of the villagers. Considering the very large area comprised in the concession and the extensive and exclusive rights proposed to be given to the Company, I think the agreement is much too vague and indefinite in its terms, and likely to lead to complications and disputes in its working.

Without seeing the previous correspondence between the Company and the officers of Government, I cannot perfectly understand the proposed arrangement; but as far as I can see from the draft it appears to be that the Company is to have

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the exclusive right of cutting timber for charcoal within an area of about forty-two square miles, taking up every year for that purpose a block sufficient for the manufacture of a certain quantity of charcoal and paying a royalty upon the charcoal manufactured. To give or agree to give any exclusive rights over so large an extent of country, before a survey has been made, and the rights of communities or individuals within that area have been ascertained, appears to me to be both dangerous and unnecessary. No general words of reservation in such an agreement can, I think, sufficiently guard against its being an invasion of the rights of third parties. It is easy to see that the very denuding of timber so large an area may in itself injuriously affect the inhabitants of the district to an extent which can only be seen as the process goes on, and the ordinary rights of the villagers to cut wood for domestic and agricultural purposes must be prejudiced. It may be found necessary in so large an area to leave certain portions of forest untouched for the use of the villagers, at any rate it seems unwise to put it out of the power of Government to do so. It is true the last clause of the agreement seems intended to obviate any such difficulties by making the whole thing practically of a binding force at all as against Government; but if that is the effect of the clause of what use is the agreement to the Company?

4. I think, therefore, that the best way to carry out the proposed arrangement will be that, before any formal contract is executed, a survey should be made, the Company depositing a sufficient sum to cover the cost of such survey, rights would be ascertained and provided for. Then as each block was ready to be handed over a regular lease of it might be executed, in a form to be settled by the legal advisers of Government, with such variations or modifications as local circumstances might require. If the object of the Company is a monopoly, a simple agreement on the part of Government not to grant licenses to others for the manufacture of charcoal within the area would be sufficient, but I do not see how this can be necessary, as there can be no doubt that as long as the Company is able and willing to manufacture to the required extent, it will be to the interest of Government to continue the arrangement, provided other interests are not affected.

5. For the above reasons I have not attempted to settle the draft on behalf of Government. If it is to be adopted in its present form many of its details must be altered in the interests of Government. Should it be resolved to adopt some such form of agreement, I request that the draft may be sent back to me to be settled. I return the draft.

THE Government Pleader will now be furnished with copies of all the correspondence on record in the Board's Office relating to the grant of a tract of forest land to the Napier Foundry Company (Limited) for the manufacture of charcoal, and he will be requested to reconsider his opinion with reference to the following remarks, and to amend the draft agreement so far as it may be necessary to do so in the interests of Government and the villagers.

Vide Clauses 2 and 3.

2. The agreement does provide for the survey and demarcation of the tract and for its subdivision into blocks, not exceeding one-fifteenth of the whole area

each, prior to any portion thereof being handed over to the Company. The blocks will be worked in rotation so that each block will be utilized in turn, and will then be retransferred to the Forest Department with a view to replanting and conservancy, fifteen years being estimated as the period required for recovery. It is expressly provided in Clause 6, that during such period as the Company are not in occupation under the terms of the agreement the remainder of the blocks shall be at the disposal of the District Forest Officer, and shall also be subject to the exercise of such communal rights as exist. The villagers will, therefore, be excluded from one-fifteenth only of the whole area, and as the Collector states that but few villages are entitled to the enjoyment of any rights in the jungles in question, it does not appear that their privileges will be materially curtailed. The grant of exclusive occupancy to the limited extent proposed temporarily does not appear to be an infringement of communal rights, for although such rights may have hitherto been exercised throughout the whole tract it is open to Government to close certain portions, provided due provision is made for the wants of those entitled to the exercise, and in this case sufficient provision seems to have been made. The lease of the blocks, as proposed, would be open to the same objections and would equally debar the villagers from the enjoyment of their privileges during the period of such lease. The effect of the last clause seems to be that the Government is absolved from all liability in the event of non-performance of their portion of the agreement, but that is a matter for the consideration of the Government and their legal advisers. The terms of the agreement might be amended so as to express the intention more clearly, but otherwise it appears unobjectionable.

3. The Conservator of Forests is requested to state whether he agrees to twenty trees per acre as the number to be reserved for reproduction.

(True Copies and Extract.)

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

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ORDER THEREON, 17th July 1876, No. 960.

Forest, No. 8.

RECORDED.

(True Extract.)

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

The Board of Revenue.

L. F. R. Bantleman.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 23rd June 1876, No. 1,630.

Read the following letters:—

From W. S. WHITESIDE, Esq., Collector of North Arcot, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Palmanair, 5th June 1876, No. 254.

With reference to Board's Proceedings, dated 17th ultimo, No. 1,289, Forest No. 46, I have the honor to inform you that I think the agreement in question as it is now drafted will do very well except that in paragraph 5, the words "per acre" should be added after the words "shall not exceed twenty in number." It is very important that this addition should be made, for, as the document now stands, the forest officer can only reserve twenty trees *per block of two and four-fifths square miles*, and twenty trees over such a large area would of course be useless for purposes of reproduction, which is the object for which it is proposed to leave a certain number of trees standing.

2. The communal rights in the jungles in question are the same as in all other forests of the district, *viz.*, rights to graze, to gather leaves for manure, and to cut fuel and wood for agricultural implements. It, however, appears there are very few villages (and those small ones) to enjoy these privileges in these jungles, and, therefore, when one block is under clearance, another may be availed of for the exercise of the above rights.

From J. W. HANDLEY, Esq., Government Pleader, Madras, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Coonoor, 16th June 1876, No. —.

I HAVE the honor to acknowledge receipt of the Board's Proceedings noted in the margin forwarding a draft agreement between the Secretary of State

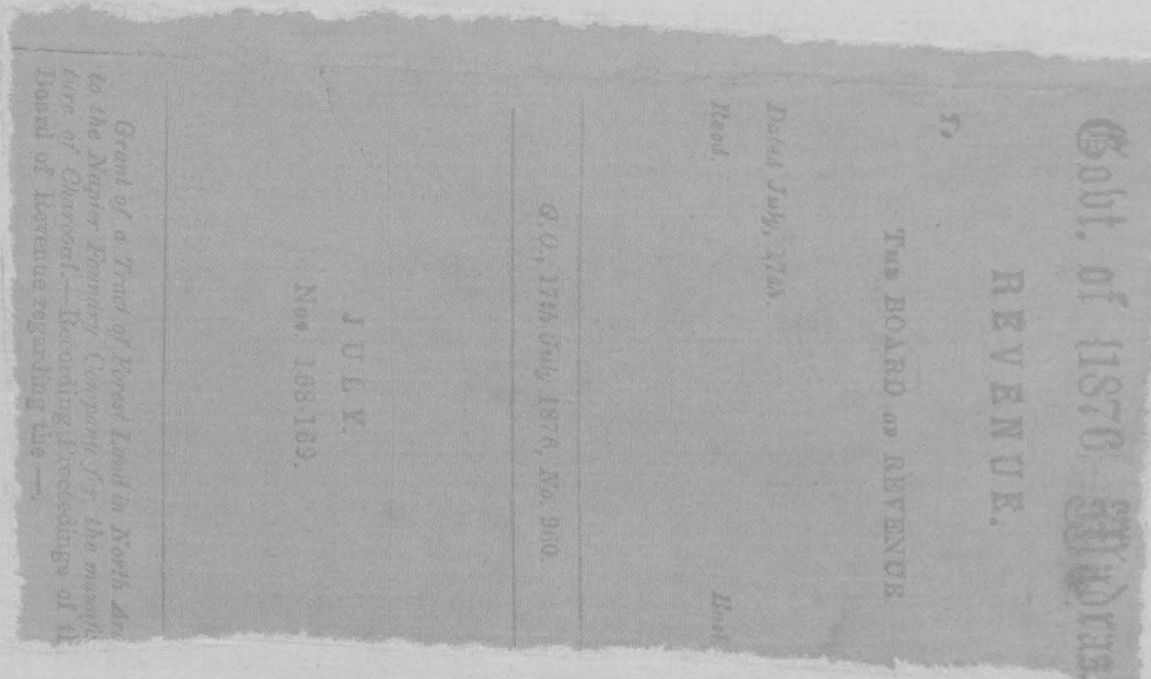
Dated 17th May 1876.

for India and the Napier Foundry Company, Limited, for an allotment of land in North Arcot for the manufacture of charcoal.

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3. In my opinion the agreement in its present form does not sufficiently provide for the security of the rights of Government and for the maintenance of the communal rights of the villagers. Considering the very large area comprised in the concession and the extensive and exclusive rights proposed to be given to the Company, I think the agreement is much too vague and indefinite in its terms, and likely to lead to complications and disputes in its working.

Without seeing the previous correspondence between the Company and the officers of Government, I cannot perfectly understand the proposed arrangement; but as far as I can see from the draft it appears to be that the Company is to have the exclusive right of cutting timber for charcoal within an area of about forty-two



square miles, taking up every year for that purpose a block sufficient for the manufacture of a certain quantity of charcoal and paying a royalty upon the charcoal manufactured. To give or agree to give any exclusive rights over so large an extent of country, before a survey has been made, and the rights of communities or individuals within that area have been ascertained, appears to me to be both dangerous and unnecessary. No general words of reservation in such an agreement can, I think, sufficiently guard against its being an invasion of the rights of third parties. It is easy to see that the very denuding of timber so large an area may in itself injuriously affect the inhabitants of the district to an extent which can only be seen as the process goes on, and the ordinary rights of the villagers to cut wood for domestic and agricultural purposes must be prejudiced. It may be found necessary in so large an area to leave certain portions of forest untouched for the use of the villagers, at any rate it seems unwise to put it out of the power of Government to do so. It is true the last clause of the agreement seems intended to obviate any such difficulties by making the whole thing practically of a binding force at all as against Government; but if that is the effect of the clause of what use is the agreement to the Company?

4. I think, therefore, that the best way to carry out the proposed arrangement will be that, before any formal contract is executed, a survey should be made, the Company depositing a sufficient sum to cover the cost of such survey, in the course of which the nature and extent of the existing communal and other rights would be ascertained and provided for. Then as each block was ready to be handed over a regular lease of it might be executed, in a form to be settled by the legal advisers of Government, with such variations or modifications as local circumstances may require. If the object of the Company is a monopoly, a simple agreement on the part of Government not to grant any other lease for the manufacture of charcoal within the area would be sufficient, but I do not see how this can be necessary, as there can be no doubt that as long as the Company is able and willing to manufacture to the required extent, it will be to the interest of Government to continue the arrangement, provided other interests are not affected.

5. For the above reasons I have not attempted to settle the draft on behalf of Government. If it is to be adopted in its present form many of its details must be altered in the interests of Government. Should it be resolved to adopt some such form of agreement, I request that the draft may be sent back to me to be settled. I return the draft.

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Vide Clauses 2 and 3.

2. The agreement does provide for the survey and demarcation of the tract and for its subdivision into blocks, not exceeding one-fifteenth of the whole area each, prior to any portion thereof being handed over to the Company. The

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blocks will be worked in rotation so that each block will be utilized in turn, and will then be retransferred to the Forest Department with a view to replanting and conservancy, fifteen years being estimated as the period required for recovery. It is expressly provided in Clause 6, that during such period as the Company are not in occupation under the terms of the agreement the remainder of the blocks shall be at the disposal of the District Forest Officer, and shall also be subject to the exercise of such communal rights as exist. The villagers will, therefore, be excluded from one-fifteenth only of the whole area, and as the Collector states that but few villages are entitled to the enjoyment of any rights in the jungles in question, it does not appear that their privileges will be materially curtailed. The grant of exclusive occupancy to the limited extent proposed temporarily does not appear to be an infringement of communal rights, for although such rights may have hitherto been exercised throughout the whole tract it is open to Government to close certain portions, provided due provision is made for the wants of those entitled to the exercise, and in this case sufficient provision seems to have been made. The lease of the blocks, as proposed, would be open to the same objections and would equally debar the villagers from the enjoyment of their privileges during the period of such lease. The effect of the last clause seems to be that the Government is absolved from all liability in the event of non-performance of their portion of the agreement, but that is a matter for the consideration of the Company and their legal advisers. The terms of the agreement might be amended so as to express the intention more clearly, but otherwise it appears unobjectionable.

3. The Conservator of Forests is requested to state whether he agrees to the terms of the draft agreement, and to state whether he is prepared to accept the same.

(True Copies and Extract.)

C. L. L.
Acting Secretary.

To the Government Pleader, with Draft Agreement
and file of printed Papers to be returned.

„ the Collector of North Arcot.

„ the Conservator of Forests, with copy of Draft Agreement.

Copy to the Secretary to Government, Revenue Department.

Exd W. H. French.

G.O. of June 17/76 No. 615

14. F.O. of 20.000 Rs. 28 July

No. 2810.
No. 574
Revenue 1876. Department

BOARD of REVENUE,
MADRAS.

PROCEEDINGS, 23RD JUNE 1876, No. 1,630.

Recd. 23rd July 1876
Encl.

Recd. 18th July 1876
JUNE.
Forest No. 56.

Grant of a Tract of Forest Land in North Arcot to Napier Foundry Company (Limited) for Manufacture of Shrapnel.—Forwarding to Government Pleader copies of correspondence relative to —; requesting him to amend draft agreement on the subject; and desiring Conservator of Forests to state whether he agrees to twenty trees per acre as the number to be reserved for reproduction.

M. J. 17/76
17th August 1876