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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

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GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following Proceedings of the Board of Revenue, dated 29th April 1884, No. 1440:—

Read—the following letter from J. STURROCK, Esq., Collector of South Canara, to the Secretary to the Board of Revenue, dated Mangalore, 3rd April 1884, No. 794:—

In G.O., dated 23rd October 1874, No. 1361, the Government recorded their opinion that anxiety to enforce proper conservancy in the forests of this district had led to misapprehension regarding the proprietary rights of land-holders, directed the removal of all existing restrictions from the exercise of proprietary rights in jungles which are private property, and called on the Collector to submit proposals for the demarcation of valuable forests admittedly the property of Government.

2. These proposals were considered in G.O., dated 20th February 1875, No. 271, and the Government directed that the forest officer should submit lists of the forests which it would be advisable to demarcate, and that, after scrutiny of this list by the revenue officers, and the elimination of those with regard to which detailed inquiry seemed unnecessary, notifications should be issued with regard to the remainder, specifying each forest by name, and stating that, unless valid cause be shown to the contrary, Government would proceed to demarcate and reserve them.

3. The Forest Department, having nothing in this unsurveyed district to guide them as to what were, or were not, probably Government forests, seem to have thought it best to include as much as possible in their lists; and, having divided the map of the eastern portion of the district into a number of sections called 'blocks' and selected a few similar blocks here and there in other parts of the district, sent in lists containing 71 blocks and 2,432 forests. The revenue officers did not see their way to summarily eliminate many of the forests in the manner expected by Government, without giving cause for complaint by the Forest Department, and notifications were accordingly issued and inquiries commenced with regard to practically the whole of the forests entered in the lists.

4. In the earlier stages of his inquiry, my predecessor, Mr. Webster, made reference for instructions in matters of detail, and submitted his proposed decisions in typical cases for confirmation. These letters were disposed of in G.Os., dated 27th September 1875, No. 1419, and 5th April 1876, No. 479, and formed, with the previous orders above alluded to, the bases on which inquiries and decisions were regulated until the 14th October 1876, when a telegram was received directing that all proceedings in regard to surrendering forests should be stayed; and this was followed by another telegram, dated 30th October 1876, directing that the inquiry should be continued, postponing decisions.

5. Though certain forest rules had been held in abeyance and operations suspended by the Forest Department, and an exercise of asserted private rights tolerated, which, some years before, would have been promptly checked, the claims of Government had not been hampered by the promulgation of any decision surrendering particular forests to individuals. The inquiries, therefore, proceeded

very much as before, and the Government of India having called for a report, Mr. Comyn submitted a clear account of the proceedings up to the 19th March 1877, which was forwarded to the Government of India on the 16th April 1877.*

* G.O., dated 20th June 1877, No. 2055, R.D. in continuation of former Proceedings of Government.

6. On receipt of a despatch from the Secretary of State dated 20th February 1879, of which no copy has been communicated to this district, the Government directed† that the Collector of South Canara should continue, until further orders, to deal with all forest questions in accordance with the practice in force in that district up to 1874.

7. The correspondence between the Government of Madras and the Government of India and the Secretary of State seems to have continued, as, on the 3rd September 1879, Mr. Comyn received a telegram asking what kind of evidence was generally adduced to support claims to forests in the inquiry, to which he

replied on the 5th idem; and in March 1880,‡ the Government forwarded two copies of the judgment of the High Court of Bombay in the North Canara forest case, which had been sent by the Secretary of State with reference to paragraph 2 of his despatch of the 20th February 1879, above referred to, and paragraph 3 of another despatch, dated 28th August 1879, No. 13.

8. On the 26th August 1880 a further despatch was received from the Secretary of State,§ stating that the views expressed by the Government of Madras in G.O.s, dated 23rd October 1874, No. 1361; 20th February 1875, No. 271; and 5th April 1876, No. 479, and in subsequent orders had not met with his approval, and that, in dealing with all such matters, the Collector of South Canara should be guided by the orders which were previously in force in the district.

9. The main principles of the orders in force prior to 1874 had already been reverted to on receipt of G.O., dated 31st May 1879, No. 1187, Revenue Department; but the inquiry still proceeded, and on the 1st September 1881, in reply to a telegram from Government, I submitted a statement of the results, as far as they had been ascertained,|| remarking, at the same time, that, if the decisions were revised with reference to the finding of the Bombay High Court in the North Canara forest case, the results would doubtless be more favorable to Government.

10. On the 30th December 1882 I received instructions¶ to revise the decisions accordingly, and I have now the honor to submit a report showing the final results of the whole inquiry.

11. The Board will, I think, readily understand that the results of an inquiry set on foot, with the view of giving practical effect to a policy which has since been abandoned, must be wanting in completeness when viewed from the stand-point of the policy embodied in recent forest orders and legislation, and seems somewhat incommensurate with the time over which the inquiry has been protracted; but although much of it might have been foregone, if the views now accepted had been held all along, a large amount of detailed information has been collected, which will afford much assistance to the Forest Department in selecting reserves, and to the forest settlement officer who will have to conduct the formal inquiry prescribed by the Madras Forest Act.

12. The forests entered in the list having been selected, as stated in paragraph 3 *supra*, on the principle of including everything, so that nothing might be lost of the small residue which the Forest Department feared would alone be left to Government, there are necessarily many of them which it will not be worth while

to demarcate, except perhaps in connection with the regular settlement and survey of the district, now that it is found that hundreds of square miles of really good forest are available, and even with regard to those about the eventual demarcation of which there could be no doubt, it was not possible, without a survey of some kind, to attempt to determine the limits of each individual's claims to easements and privileges, nor would any decisions we might have passed on the point have been binding under the new Forest Act. I have, therefore, confined myself to placing the claims on record and indicating my opinion with regard to their admissibility. When the inquiry first began, Mr. Webster found, when he proceeded to the spot to hold a local investigation, that many fresh claimants came forward, pleading either ignorance of what was meant by the notification, or that their piece of a forest was known locally by a separate name from that given in the notification; and these claims had to be registered and considered, involving either an adjourned inquiry, or a prolonged detention in the locality. To avoid this kind of thing in connection with the blocks afterwards taken up for inquiry, tahsildars were directed to obtain statements from the leading men of each village with regard to every forest in the list, and since the passing of the new Forest Act, the inquiries have embraced claims to rights of way and water.

13. The tahsildars' reports having been verified by local investigation by the Collector, at first with regard to almost every forest, but latterly only to such an extent as seemed necessary for the purpose of check, or the elucidation of claims of a peculiar nature, the substance of the reports has been embodied in considerable detail in English memoranda, which have been filed and indexed; and my views as to the admissibility of the claims have been recorded, occasionally by means of marginal notes, where such a course seemed necessary, but usually by classifying the forests in five groups, of which the following is an abstract:—

	No.
I. Private forests	41
II. Government forests, subject, in some cases, to—	394
(a) rights of way;	
(b) rights to water-course or to use of water.	182
III. Government forests, subject to—	
(a) rights of way;	
(b) rights to water-course or to use of water;	
(c) rights to 'kumaki' (occupancy right in aid of cultivation) up to 100 yards from the limits of cultivated lands or waste fields.	1,212
IV. Government forests, subject to—	
(a) rights of way;	
(b) rights to water-course or to use of water;	
(c) rights to pasture and forest produce over a portion of the forest.	603
V. Government forests, subject to—	
(a) rights of way;	
(b) rights to water-course or to use of water;	
(c) rights to pasture and forest produce over the whole or the greater part of the forest.	2,432

The grouping has been adopted with reference to sections 10 and 11 of the Madras Forest Act, but, as I have already stated above, no information with regard to rights to way or water has been recorded in connection with such of the inquiries as were held prior to the passing of the Act.

14. In explanation of this grouping, I shall now describe the nature of the claims, and state, as briefly as possible, the extent to which, in my opinion, these claims are admissible under the decision of the Secretary of State, that the judgment in the North Canara forest case is to be my guide. With reference to this judgment, the fact should not, I think, be altogether overlooked that the rights of the people with regard to forests, at the time when the English administration

commenced, were held to be very different in South Canara from what they were in the greater part of North Canara, including the tract in which were situated the forests forming the subject of the case.

* Indian Law Reports, Bombay Series, Volume III, Part XII, page 458 and page 581.

† Bombay High Court Reports, Appendix to Volume XII, Suit No. 1 of 1871, page 18.

‡ Sir Thomas Munro's letter, dated 31st May 1800, paragraph 31 in Arbuthnot's Edition, page 74.

§ Page 178 of Sir Thomas Munro's Minutes, Arbuthnot's Edition.

|| Paragraphs 10 and 18 to 22 of Board's Proceedings, dated 21st March 1871, No. 1222.

Indian Law Reports, Bombay Series, Volume III, page 587.

limitation, affects both North and South Canara; and the Secretary of State having decided that the legal rights of Government should be enforced, it ceases to be a question of much practical importance whether the early administrators were correct in holding that certain forests were held equally with cultivated land in absolute proprietary right, or the true view was that taken by Mr. Blane when he wrote, in 1848, ¶ regarding the forests attached to estates: "They do not appear to have originally differed materially from the waste lands used for similar purposes in other parts of the country, except that, in place of being common to the whole village, they were divided and enjoyed in separate portions by the individual land-holders. The original terms upon which they were held then I conceive to have been essentially as an adjunct to, and in connection with, the cultivated lands, and the right to them to have been a modified right, and only to be enjoyed for the purposes for which they were held as above stated." The latter view has, since the middle of the century, been so generally acted upon, without being challenged in the courts of law, that limitation now effectually bars legal opposition to the assertion of Government rights to that extent, except in certain special cases which will be noticed hereafter.

15. I will now proceed to notice briefly the different classes of claims which have been preferred, and the manner in which I would propose to deal with them. All fall under one or other of the following heads:—

- (1) Claims under mulputtas granted by the revenue officers of Government.
- (2) Claims under mulputtas granted by the British Courts.
- (3) Claims under grants from former Native Governments.
- (4) Claims under boundary stones known as 'lingamudre' and 'vāmana-mudre.'
- (5) Claims under decrees of British Courts in suits between private parties or under documents executed between private parties.
- (6) Claims to the 'nettikut' or crest of the hill adjoining cultivation, under the custom of the country.
- (7) Claims to 'kumari' (cultivation by periodical felling and burning forests).
- (8) Claims to pepper or cardamom forests.
- (9) Claims to 'kumaki' in the sense in which that word has been used for the last twenty years or more.
- (10) Claims to 'bāncs.'
- (11) Claims to coppices or small jungles locally recognised as attached to estates.
- (12) Claims to the common enjoyment of village jungles.

16. *Claims under Mulputtas granted by the Revenue Officers of Government.*—Mulputtas are formal title-deeds granted prior to 1844 by the revenue officers of Government, chiefly for deserted estates. The boundaries frequently include a considerable extent of waste and forest land, and although the documents contain a clause indicating that it was supposed that they merely made over to the new holder the rights vested in the former proprietor, the list of rights conferred is very exhaustive; and in the course of his judgment in the Bombay forest case, the Hon'ble Mr. Justice West has fully discussed the terms of these mulputtas at considerable length, and recorded his opinion that "there can be no doubt that they were intended to convey a complete ownership subject to assessment."*

* Indian Law Reports, Bombay Series, Volume III, page 554.

† G.O., dated 7th December 1881, No. 1889, R.D.

G.O., dated 6th February 1882, No. 141, R.D.

This decision has been accepted by Government in the marginally-noted orders,† and the thirty forests claimed under mulputtas, and found on inquiry to be within the recorded boundaries, have been entered by me in group I, private forests. The contracts being still in force, I do not see how the forests can be treated as other than private property; but it may be that certain invasions of full proprietary rights made under what Mr. Justice West considers a mistaken interpretation of the terms of the mulputta, and not at the time challenged by a court of law, would, if the Government so desire, still be upheld under the Law of Limitation. For instance, the tacit acceptance of remission of kumari assessment when 'kumari' was prohibited, will act as a bar to an assertion of a right to revive that method of cultivation within mulputta limits.

17. *Claims under Mulputtas granted by the British Courts.*—In the days when mulputtas were granted by the revenue officers, civil courts used to adopt the same form for lands brought to sale by them; and as such documents were at that time granted after the receipt of a survey list prepared in the Revenue Department, it has been contended that the administrative officers of Government were parties to them, and they should, therefore, receive the same recognition as is accorded to the mulputtas granted by Collectors. I do not, however, see any reason to admit this contention. It is true that the revenue officers had notice of the claims, and took no steps to challenge them; but such claims were freely admitted at that time in an informal manner, as, for instance, in official correspondence, in survey lists for all manner of purposes, and notably in the preparation of mulputtas, where the forest of another man's estate is frequently mentioned as forming the boundary of the land granted under a mulputta. As the views of Government changed, these informal recognitions were avoided. Government claims, as then understood, were vigorously asserted, and in dealing with the matter now, it seems to me that these individuals with whom a specific contract was made by the authorised agents of Government, stand in a position different from all others. I have, therefore, attached no special importance to mulputtas granted by civil courts, and have dealt with the claims only as they fall under one or other of the heads above given. I may mention that claims of this kind have not been very numerous, no more than fourteen having been preferred in connection with this inquiry.

18. *Claims under grants from former Native Governments.*—Grants from former Governments, couched in language similar to that used in the mulputtas granted by revenue officers, have received the same recognition. The great majority of such grants were of the nature of endowments, and although they were sometimes

‡ Indian Law Reports, Bombay Series, Volume III, page 555, line 1.

§ Sir Thomas Munro's Minutes, Arbuthnot's Edition, page 73.

expressed in terms conferring absolute ownership ‡ within specific boundaries as against the Government, they, as a rule, merely gave the right of collecting assessment from any individuals already holding land § within the boundaries, so that when the endowments were resumed by bringing the assessment again into

the revenue demand and giving 'tasdikis' or money allowances instead, the grants practically lapsed in all cases, except those in which the grantees happened to hold the occupancy rights also. Claims to forests under such grants have, therefore, not been numerous, and out of seven preferred only four have been recognised, embracing eleven forests which have consequently been entered in group I. In the case of one jungle, No. 5, in block No. 28, which is included in a demarcated area purchased from the Keladi Raja Basava Naik, nothing has been produced but an order intimating the grant of the land, and directing its demarcation; but I see no reason to doubt that the usual forest rights were accorded within the boundaries specified. I have, of course, attached no special importance to inscriptions on copper plates or granite slabs, or other evidence of grants, when the present proprietors of the land are the representatives, not of the grantee, but of those who paid assessment to him. In such cases, the validity of the claims of the present occupants depends not on the grants but on other considerations.

19. *Claims under Boundary Stones known as 'Lingamudre' and 'Vāmanamudre' Stones.*—When the Lingait and other Hindu Governments made grants, either of assignments of revenue, or of escheated lands, or of waste formerly unoccupied, they frequently deputed officers to mark out the boundaries by 'lingamudre' or 'vāmanamudre' stones. Many of these now exist, especially in the two northern taluks of Kundapore and Udipi. But without further evidence in each case, it is impossible to say what specific rights were conferred within the boundaries thus marked out, especially as similar stones were used in demarcating a disputed village boundary; and I have, therefore, dealt with claims of this kind according as they fall within the other heads specified, giving due weight to the presence of the stones as evidence of the limits within which rights of some kind had been formally conferred or defined.

20. *Claims under Decrees of British Courts in Suits between private parties or under documents executed between private parties.*—Documents of this kind are manifestly not binding against Government, and can only serve as evidence, to be taken for what it is worth, of claims falling under some other head.

21. *Claims to the 'Nettikut' or crest of the hill adjoining cultivation under the custom of the country.*—This district, which has to provide for the drainage of from 130 to 200 inches of annual rain-fall, is necessarily throughout the greater part of its area made up of a succession of hills and valleys, the lowlands being under rice or garden cultivation, for which the leaves and twigs from the woods and forests clothing the slopes have always been very freely used as manure; and, as explained by Mr. Blane in the quotation given in paragraph 14 *supra*, this woodland was not common to the village, but enjoyed in separate portions by the individual land-holders. The crest of the hill dividing the valleys formed the natural boundary of the holdings of the cultivators on each side of a ridge, and wherever the conditions permit of it, this nettikut, or crest of the hill, is found to be the boundary usually adopted in mulputtas, grants from native princes, and old private and public documents of all kinds. That the wargdars themselves, and the earlier British administrators, treated these forests as an integral part of each proprietary estate, there can

be no question,* though the amount of cultivated land formed the basis of the assessment, as is necessarily the case in any system of assessment founded on a claim to a share of the produce. As far as I can find out, Mr. Maltby in 1839† and Mr. Blane in 1848‡ were the first to question the correctness of the view that the forest waste attached to estates was also held on proprietary right; and the opinions held by these officers gradually gained ground. Land within 'nettikut' limits was no longer refused, as a matter of course, to applicants who desired to take it up for cultivation; and in the order of Government* sanctioning the Forest Rules of 1864 full concurrence is

Board's Proceedings, dated 15th February 1864, No. 986.

expressed with a Board's proceedings* in which the claim to the exercise of exclusive rights to forest land by wargdars is limited to the extent of 100 yards with the remark that the restriction does not preclude cultivators from collecting leaves, &c., for manure in the Government angle beyond that limit. In a subsequent proceedings† the Board remark, "Thus it appears that, according to the acknowledged and long-established custom of the district, individual ryots may, at pleasure, fell trees other than the prohibited kinds within 100 yards from their cultivated lands, though not in their wargs, and sell such trees within their villages; and also that beyond this distance the cultivators of each valley have the common usufruct of the open hill-sides up to the water-shed dividing each valley, but must not cut down trees growing in this common land."

"The Board are not prepared to sanction any additional restriction on these villages." In rule 10 of the Forest Rules of 1864 ryots who have not sufficient timber for their requirements are allowed to cut the unreserved kinds of timber, free of charge, for agricultural purposes within their village boundaries.

Whatever, then, may have been the old idea, the assertion of proprietary claims to the 'nettikut' seems to be clearly barred by limitation; but, on the other hand, the Government cannot reserve forests on hill-sides adjoining cultivation without making adequate arrangements for the provision free of charge for the *bonâ fide* requirements of the cultivators in the way of pasture, fuel, and timber of the unreserved kinds for agricultural and domestic purposes. Forests, including such hill-sides and not entered in the 'Harris' list, which will be referred to hereafter, have, therefore, been placed by me in group IV or group V according to the extent of the forest over which the rights of the cultivators seemed to extend. In the Board's proceedings above quoted, exclusive individual rights are disallowed, and only common rights admitted; but in all but the more thickly-populated tracts individual rights are still locally recognised between the villagers themselves, and I think it is, in the interest of conservancy, not to interfere with such local arrangements where we find them existing.

22. *Claims to Kumari (cultivation by periodical felling and burning) Forests.*—The Government having in 1860 effectually asserted their proprietary right to kumari forests by putting a stop to kumari cultivation therein, it follows from the decision of the Bombay High Court in the North Canara case that all claims to kumari forests as such are now barred by limitation. Claims of the kind have, therefore, been summarily set aside, and the forests concerned have been grouped with reference to the other considerations advanced.

23. *Claims to Pepper or Cardamom Forests.*—At the time of the assumption of the charge of the district by the English, a large number of pepper forests or 'kâns' (especially in the old Puttur taluk), were found to be in the enjoyment of ryots, in the majority of cases the accounts of the estates to which they were attached contain an item of 'kân' assessment. In the early days these kâns seem to have been treated as an integral part of the proprietary estates, but in later years the general assertion of the forest rights of Government was extended to them also. The settlement order for fasli 1262 (A.D. 1852) contains distinct instructions to this effect to the tahsildar of the Puttur taluk, and directs that care should be taken that the kâns are not destroyed. In 1857 also the Collector declined to allow wargdars to fell trees in their kâns, and this rule was generally followed up to 1874. On the other hand, the ryots' occupation and enjoyment of kâns for the purpose of growing pepper was never interfered with, and when the Forest Department in 1859 sold to timber merchants some standing trees in reserved kâns, the then Collector Mr. Fisher, a warm supporter of the forest rights of Government, wrote and requested that the felling of the trees should be put a stop to. The rights of Government over kâns seem, therefore, to be restricted very much in the same way as are their rights over the 'kumaki' lands which will be next referred to. As stated above, most occupied 'kâns' bear a

*See references to paragraph 14 *supra*.

† Letter to Board, dated 22nd July 1839, No. 58, paragraph 9, reply to Q. 3.

‡ Letter to Board, dated 20th September 1848, paragraph 41.

§ G.O., dated 20th May 1865, No. 1065, R.D.

specific assessment, but this is not invariably the case; and in considering the claims, I have recognised only those which are entered in the accounts prepared in the year Durmuti (1800-1801), when the British assumed charge of the country, or in the year Angirasa (A.D. 1812), when a settlement was made by the Coorg Government in the Amara and Sullia maganis, or in the 'sarasari' (average) accounts prepared in 1819 in connection with the 'tharao' (fixed) settlement, which is still in force. I have paid no attention to the inclusion of unassessed káns in casual survey accounts prepared by village officers, as it seems to be pretty clear that the occupation in such cases is a mere encroachment; but as regards many of them, it may be found to the interest of the Forest Department to impose a small charge, and leave them in the enjoyment of the parties now obtaining pepper from them.

24. *Claims to Kumaki in the sense in which that word has been used for the last twenty years.*—Rule 8 of the Forest Rules of 1864 runs as follows:—"Kumaki land is limited to 100 yards from the cultivated land to which it is attached," and it is in this sense that the expression is now generally used and understood, although in some of the more outlying tracts the villagers still speak of the whole hill-side as their kumaki. In their proceedings, dated 15th February 1864, No. 986, forwarding the draft Forest Rules to Government, the Board of Revenue ascribe the 100 yards rule to Mr. Harris, apparently on the authority of a

* Board's Proceedings, dated 17th November 1860, No. 5359.

letter from a Collector of South Canara, dated 25th September 1860, No. 158,*

in which translations of two orders by Mr. Harris are forwarded with the remark that "the origin of kumaki land was in 1823, when Mr. Harris, the then Collector, by two orders, of which translations are forwarded, allotted to each wargdar the Sirkar forest or waste land within 100 yards all round the boundaries of his estate or warg." In paragraphs 18 to 22 of Board's proceedings, dated 21st March 1871, No. 1222, it is clearly shown that this was a mistake, and what Mr. Harris really did was to call for a list of Government forests, assigning, at the same time, to estates which had no forest land attached to them 100 yards from the Government forests adjoining them. I cannot

† Indian Law Reports, Bombay, Volume III, 1879, page 732.

exactly trace the origin of the misconception. Mr. Justice West suggests † that it may have taken its rise from

the action of the Sub-Collector, who, on a reference from a tahsildar in North Canara as to the manner in which the list called for by Mr. Harris should be prepared, directed that the whole of the forests, except 100 yards round cultivation, should be entered as Government forests. Nothing of this kind, however, seems to have taken place in South Canara, and the return from the Barkur taluk was even sent back for revision, as it appeared that too many forests had been entered as Government property, the result being that eight out of thirty-six were struck off as having been "watched and taken care of by watchers engaged by villagers." I am inclined to attribute it to a memorandum prepared by the Collector's sarishtadar in 1845, with regard to forests in the Adur magani of the Puttur taluk, which was attached to Coorg from 1804 to 1834. The forests were claimed by the Adur temple and by the wargdars. The sarishtadar first showed that the forests, which formed part of a resumed endowment, belonged neither to the temple nor to the wargdars, and then proposed that the wargdars should be given the privilege of retaining as 'kumaki' the 100 yards around cultivated land allowed by Mr. Harris in other parts of the district, when the forests in question were attached to Coorg. The sarishtadar's proposal was made, because, under the circumstances of the Adur magani, he considered that the wargdars had no private forests; but the nature of Mr. Harris's order of 1822 might easily be misapprehended by any one who derived his knowledge of it from the memorandum alone. As the Board are aware, the lists of Government forests obtained by Mr. Harris were burnt by the Coorgs in 1837; but the taluk copies for a considerable part of the district have been found, and contain sixty-seven jungles of an estimated area of 250 square

‡ Board's Proceedings, dated 12th November 1878, No. 3029, paragraph 4.

miles.‡ Such of the Harris's jungles as are near cultivated land, and others, which the present inquiry has shown to

be free from more extended private claims, I have placed under group III as Government forests, subject only to 'kumaki' rights and rights to way and water. The 394 forests to which no private claims of any kind were made good, and which were remote from cultivation, I have placed under class II as Government forests, subject, in some cases, to rights to way and water. As already stated, the present inquiry did not extend to these rights.

25. *Claims to 'Bánes.'*—The Amara and Sullia maganis of the Uppinangadi taluk were for about two hundred years attached to Coorg, and at a settlement held about the year 1812, pieces of jungle called 'bánes' were assigned to each landholder for the provision of pasture, fuel, and timber. The 'bánes,' therefore, correspond, as regards the purposes for which they were assigned, to the 'kumakis' referred to in the last paragraph; but they do not necessarily adjoin the cultivated land on account of which they are enjoyed. Forests containing 'bánes' have been classed under group IV or V as the case may be.

26. *Claims to Coppices or small jungles locally recognised as attached to Estates.*—In paragraph 21 I have explained that the 'nettikut' or crest of the hill adjoining cultivation was the usual boundary of what was at first considered to be forest attached to an estate, and afterwards regarded as the limit up to which villagers might in common claim the right to gather leaves and pasture their cattle; but this boundary was not universally adopted, and, in some localities, the physical conditions would not permit of it. In many cases, therefore, coppices and small jungles are claimed on the strength of long enjoyment, evidenced sometimes by decrees of civil courts, revenue survey lists, or private documents. For the purposes of this inquiry, I have treated these claims as similar to the 'nettikut' claims referred to in paragraph 21.

27. *Claims to the common enjoyment of Village Jungles.*—These claims are common where cultivation is extensive, and the configuration of the country and the extent of forest available do not permit of the separate individual forest claims prevailing throughout the greater part of the district. Most of the forests to which extensive claims of this kind have been preferred have been entered by me in group V.

28. It now remains for me to indicate briefly how I would apply the draft Forest Rules printed with Board's proceedings, dated 16th January 1884, No. 120, to the forests dealt with in the above report.

29. The forty-one forests entered in class I as private forests fall only within the provisions of sections 29 to 32 of the Forest Act, and are, therefore, outside the scope of the draft Forest Rules.

30. The 394 forests in class II are available for reservation as 'reserved forests,' as soon as claims to rights to way and water have been determined, and may be at once declared to be 'reserved lands' under Rule I of the draft Forest Rules. The 182 forests in class III may be similarly treated, with the exception of a strip of 100 yards breadth round cultivated land. With regard to the latter, however, though the cultivators cannot claim, as a matter of right, any forest privileges beyond the 100 yards limit, I think it would be unwise not to concede them subject to such regulation as the Forest Department may, from time to time, deem necessary. Most of the tracts are far from the markets, and the cultivators labor under many disadvantages which are leading to the collection of land-revenue in the neighbourhood of the ghauts becoming a matter of increasing difficulty every year; and it would cost the Forest Department nothing to treat the few local cultivators liberally in the way of pasture, leaves for manure, bamboos, reeds, creepers, and the many other articles of minor forest-produce, which are freely used at present by cultivators dwelling near the forests, and which are not always to be found in sufficient quantities within 100 yards from cultivated land, especially as in such tracts it is usually found to be absolutely necessary to clear a portion of the land immediately surrounding cultivation if the crops are to be effectually secured from the depredations of wild animals.

31. The greater portion of the 1,212 forests entered in class IV are also available for reservation; but, as explained in paragraph 12, it is doubtful in many

cases if reservation is called for, and the limits of private claims must be decided at the time of demarcation. Kumaki lands (paragraph 24), káns (paragraph 23), bánes (paragraph 25), and other occupied lands, not held on a forest lease, must be excluded altogether. As regards 'nettikut,' I have explained in paragraph 21 that the right to pasture, leaves, &c., usually extends to the crest of the hill overlooking cultivation; but it does not necessarily do so, and in the neighbourhood of the ghauts and the large ridges running out from them, a cultivator of a narrow strip of land in a valley cannot reasonably claim the user of the several square miles of forest which lie between his cultivation and the crest of the hill above. The investigations and decisions required by law before the constitution of a 'reserved forest,' provide ample safeguards against excessive zeal on the part of the forest executive; but as the unregulated exercise of rights to pasture, leaves, &c., is only allowed by the draft Forest Rules as regards unreserved lands, injustice may easily be unwittingly caused to rural communities by a hasty setting aside of forests as 'reserved lands' under Rule 1 of these rules. It is true that the law declares that the rules are "subject to all rights now legally vested in individuals and communities;" but in a matter of this kind simple villagers cannot, in practice, fight the executive step by step in the civil courts, and I think that the Government should direct that no forest land within a 'nettikut,' that is to say, on a hill-side adjoining cultivation, shall be set aside as 'reserved land' under the Forest Rules, until the Collector has placed it on record that the wants of the adjoining cultivators in the way of forest aids to cultivation have been inquired into, and ample provision has been made for them. As in the case of reserved forests, such provision may be made either by exclusion or regulation.

32. The whole or the greater portion of each of the 603 forests entered in class V has been found to be in the enjoyment of individuals or of communities, many of whom have spent money on their conservation. In some cases, it may be in the interest of the communities that the Forest Department should take these jungles under reservation, and manage them on behalf of the communities; but with the vast amount of forest land in this district, and the small and unsatisfactory staff at present available for their management, I do not think that much should be done in this direction at present. The framers of the joint report on forest legislation, dated 10th June 1882, have stated in paragraph 27, "What we desire is to guard against an indiscriminate and hasty extension of the rules to all waste lands, as we believe that such a measure is unnecessary, and would be very oppressive to the people as well as inconvenient in the revenue administration." Believing that such a hasty extension is altogether unnecessary and open to special objection in this district, I would recommend that an order be passed that no forest land now in the enjoyment of a village community shall be placed in the list of reserved lands, until the Collector has formally placed it on record that assumption of management of the forest has been found to be necessary in the interests of the community, and that adequate arrangements have been made for its conservancy. The hasty entry of such a forest on the list of reserved lands at present would merely mean that a new source of extortion had been afforded to a forest guard, whose charge is much larger than he can possibly look after, while the villagers had been in great part deprived of such interest as they had hitherto had in endeavouring to conserve it for themselves.

33. I send, herewith, a skeleton map of the district with entries showing the localities in which blocks have been selected and colored so as to roughly indicate for each block whether extensive easements prevail or not.

34. There are now lying undisposed of in the office a number of petitions preferring claims to jungles, and if Government approve the conclusions set forth in the above report, I propose to endorse those preferring claims based on mulputta or Native grants, which have been admitted, to the effect that Government admit the proprietary right of the claimant to all land within the boundaries specified in the mulputta, or grant, subject to such revision of assessment as may be decided on at a general revision of the assessment of the district.

In other cases, the endorsement would be to the effect that Government recognise no claim to proprietary right over the jungles in question, and that the exercise of rights to timber, pasture, and other forest-produce must be governed by such rules and orders as may, from time to time, be issued under the Madras Forest Act.

ENCLOSURE No. 1.—Skeleton Map.

Resolution—dated 29th April 1884, No. 1440.

The Collector's report upon forest rights in South Canara will be submitted for the orders of Government.

2. In the first eight paragraphs, Mr. Sturrock gives a brief narrative of the instructions conveyed to the Collector down to the issue of G.O., No. 4460, dated 30th December 1882, which directed the Collector to revise the inquiries already made with reference to the decision of the Bombay High Court in the North Canara forest appeal.

3. The inquiry held by Messrs. McCallum Webster, Comyn, and Sturrock has extended to no less than 2,432 forests. In the case of those which were investigated before the passing of the Madras Forest Act (V of 1882), no inquiry was made into rights of way and water. The tahsildars' reports, with the Collector's remarks thereon, have been filed and indexed, and are available for reference in any future settlement. The result is that the Collector is of opinion that 41 forests are private forests and that 2,391 are Government forests, but are subject more or less to easements which will have to be ascertained.

4. With reference to paragraph 14 of the Collector's letter, the Board concur in the opinion that it is now of no practical importance to discuss the action of the early British administrators in North and South Canara, inasmuch as limitation has extinguished any claims which might have been based upon such action.

5. The Board would adopt the suggestion at the close of paragraph 16 that kumari cultivation be prohibited even in lands held on a mulputta title.

6. The Board understand the difference drawn by Mr. Sturrock between mulputtas granted by the revenue officers and those granted by the civil courts to be based on the fact that there was no formal recognition by the former officials of the title conferred by the latter class of deeds. If so, they consider the distinction has been rightly drawn.

7. In the cases, too, of grants by Native Governments, where occupancy rights were not also conferred, the Board think the Collector's non-recognition of any title having been created as against Government is correct.

8. The Board agree with the opinion expressed in paragraphs 19 and 20 that boundary stones and decisions in suits between private parties cannot be accepted as evidence binding Government.

9. In paragraph 21, the Collector discusses the question of 'nettikut' or easements in the forest on the slopes above cultivation as far as the crest of the slope. While admitting that such claims are barred by limitation, the Collector is in favor of conceding both communal and individual claims to such forest, but the Board do not consider that he has established sufficient reasons for the course he advocates.

10. It is rightly observed in paragraph 22 that kumari cultivation must now cease.

11. In paragraph 23 the Collector expresses an opinion that the rights of Government over káns or pepper gardens are limited. Those only which were entered as káns in the early accounts have been recognised.

12. The question of kumaki is discussed in paragraph 24. The limit of 100 yards was prescribed in the Forest Rules of 1864, and ought now to be maintained, whatever may have been the origin of this limit.

13. In paragraph 25 the Collector mentions that in the portion of the Uppinangadi taluk, which was formerly attached to Coorg, there are 'Bane' rights which resemble 'kumaki' rights, but do not necessarily relate to forest adjoining the cultivation; and in paragraph 26 mentions that there are claims resembling 'nettikut', which, however, are for jungle not situated on the slopes above the cultivation. There are also, he says, claims to communal enjoyment of village jungles as mentioned in paragraph 27.

14. The Collector proposes that when Government issue the rules which were submitted with Board's proceedings, No. 120, dated 16th January 1884, 394 forests be declared 'reserved land' under the rules, and afterwards 'reserved forests' under the Act. There are also 182 forests which may be similarly treated, with the exception of a strip of 100 yards round cultivated lands. Mr. Sturrock is, however, in favor of treating the cultivators liberally in the matter of pasture, leaves for manure, bamboos, reeds, creepers, and other minor forest-produce. He is opposed to the reservation of 1,212 forests which include nettikut claims and of 603 forests which are, for the most part, in the enjoyment of individuals or communities; and he suggests that orders issue that no forest land on a hill-side adjoining cultivation be set aside as reserved land, until the Collector has placed it on record that provision has been made for the wants of the adjacent cultivators, and also that orders be passed that no forest land now in the enjoyment of a village community shall be placed on the list of reserved lands, until the Collector has formally placed it on record that the interests of the community render necessary the reservation. The Board admit that it is very desirable that the cultivators be treated with every consideration, but the proposed orders might unduly hamper Mr. Starrock's successors in the district. The proposed order about 'nettikut' might debar reservation on the slopes of the ghauts miles above the cultivated land.

15. The orders of Government are solicited on paragraph 34 of the Collector's letter.

(A true Copy and Extract.)

(Signed) G. T. MACKENZIE,
Acting Sub-Secretary.

To the Secretary to Government, Revenue Department,
with a sketch map.
Copy to the Collector of South Canara.

READ—the following telegram from Collector of South Canara, to Secretary to Government, Revenue Department, dated 23rd May 1884:—

Board's Proceedings, 29th April, No. 1440. Am submitting remarks paragraph 9 through Board. Please await before passing orders Proceedings.

READ—the following Proceedings of the Board of Revenue, dated 12th June 1884, No. ²⁰²⁵ Forest 149:—

Read—the following letter from J. STURROCK, Esq., Collector of South Canara, to the Secretary to the Board of Revenue, dated Mangalore, 25th May 1884, No. 1230:—

With reference to paragraph 9 of the Board's Proceedings, dated 29th April 1884, No. 1440 (Confidential), I have the honor to submit that the Board have somewhat misapprehended my remarks with regard to "Nettikuts."

2. The Board state that I admit that claims to easements in the forest on slopes above cultivation as far as the crest of the slope are barred by limitation, but that I am in favor of conceding both communal and individual claims to such forest.

3. What I have stated in paragraph 21 is that the assertion of proprietary claims seems to be barred by limitation, but I show in the same paragraph that the

Government in 1866 admitted the right of the villagers to collect leaves, &c., for manure in Government villages beyond the 100 yards limit; that the Board in 1865 distinctly declined to sanction any restriction of the privileges enjoyed by the cultivators of each valley as regards the common usufruct of the open hill-sides up to the water-shed dividing each valley; and that, under the forest rules of 1864, ryots who have not sufficient timber in their kumaki lands are allowed to cut the unreserved kinds of timber, free of charge, within their village boundaries.

4. The only extension of what has always been permitted advocated by me is that, where, under local custom, the privileges in any forest are exercised by individuals in locally-recognized divisions instead of by the villagers in common, the Government should not interfere. This I advocate in the interests of forest conservancy, as the common use of forests is seldom wisely regulated.

Resolution—dated 12th June 1884, No. ²⁰²⁵ Forest 149.

Submitted to Government in continuation of Board's Proceedings, No. 1440, dated 29th April 1884.

2. The Collector explains that in paragraph 21 of his letter, dated 3rd April 1884, No. 794, he said that proprietary claims on the slopes were barred, but that the communities enjoy easements which must be allowed, and that where these easements are enjoyed not by communities but by individuals, it would be good policy not to interfere, as individuals do less harm to the forests than communities.

(A true Copy and Extract.)

(Signed) G. MACKENZIE,
Acting Sub-Secretary.

To the Secretary to Government, Revenue Department.

Copy to the Collector of South Canara.

" " Conservator of Forests, Southern Circle.

" " Conservator of Forests, Northern Circle.

" " Deputy Conservator of Forests, in charge of
Central Office of Accounts.

ORDER—dated 12th August 1884, No. 932, Revenue.

Forest No. 124.

Ordered that the report be forwarded to the Government of India for submission to the Right Honorable the Secretary of State.

2. Mr. Sturrock has brought to completion a very laborious task and an investigation of great importance. The Government approve generally of his report and results, but defer final orders pending receipt of instructions from the Secretary of State.

(True Extract.)

(Signed) H. E. STOKES,
Secretary to Government.

To the Board of Revenue.

Ed. F. R. Bantleman.

Govt. of 1884 Madras.
REVENUE.

Issued

Recd.

Encl.

G.O., 12th August 1884, No. 932.

AUGUST.

Forest Rights

in South Canara.— Report on — ordered to be
forwarded to the Government of India for sub-
mission to the Secretary of State.