

CHAPTER - II

COLONIAL GOVERNMENT'S MOTIVES AND SUCCESSIVE FOREST ACTS AND POLICY OF THE GOVERNMENT OF INDIA

(The British matured themselves in the science of forestry before they entered the forests of Bengal. Being almost prepared they slated for the commercial use of Bengal forests. But they gained their knowledge of forests from two regions – Malabar and Burma, which were their laboratories. What they learnt in these two regions was implemented in our area of study. Naturally it is important to get an idea of their experiences in Malabar and Burma.)

(No forest policy was initiated when the East India Company commenced to govern India, nor was it realized that any such policy was necessary. The early British rulers hoped to consolidate their control by extending cultivation. The denudation of the countryside helped them gain a military advantage against their foes. The new rulers inherited certain Indian ideas of the inherent conflict between farm and forest, but they gave such notions a new significance. The British believed that jungles were lands that had lapsed into a state of nature because of inadequate care by humans to clear wild vegetation. To Nathaniel Halhead jungle was 'land laid waste for five years'. The jungle was thus seen as the result of the abandonment of cultivation, and was also a place of wild vegetation. Increased revenue was their main intention. The extension of the cultivated acreage was an index by which the British evaluated the success or failure of their policies. Forests were a landscape to be conquered and tamed.) Before their contact with Hyder Ali and Tipu Sultan the British like the Mughals gave importance to agriculture and did not object to the destruction of forests for the extension of cultivation. As for example the forests in Sundarbans alone shrank by about 2560 square kilometres released for agricultural purposes in the last 200 years. (After the Permanent Settlement in Bengal (1793) even when new areas of land were brought under cultivation by the zamindars at the cost of forests the British were not alive to the necessity of putting a stop to this process of reckless deforestation. When the British came in contact with Hyder Ali and Tipu Sultan in the wake of war, they understood the importance of teak as a commercial article.) They came to know how Hyder Ali and Tipu Sultan used teak timber for shipbuilding purposes and exported teak to Arab Countries and earned money. The British imitated Tipu in more than one way and the utilization of teak timber for various purposes was not an exception. (Now teak timber formed the main demand of the Government officials for shipbuilding, military and other purposes and the

arrangements necessary for felling the trees and their transport from the forests was the only end in view.) Tipu's defeat in 1792 brought to them Malabar, and road was clear to exploit the Malabar forests. The earliest record of these attempts is the formation of a timber syndicate in Malabar in 1796.¹ This syndicate appears to have prospered for a time and then collapsed. Other similar attempts were conceived, chiefly in connection with the supply of timber for the Navy, but they met with a chequered existence. E.P. Stebbing has given an extract from Milburn's "Oriental Commerce" on the subject of the amounts of the teak extracted from Malabar forest and the prices ruling at this period. It is of considerable interest:

"In the year 1799, 10,000 teak trees were brought down the Beypur River (Malabar). This was the produce of several years; but it was estimated that from 2000 to 3000 trees may be procured." "Teak timber, of an ordinary quality for ship-building sells at 9 or 10 Rupees a candy, which measures $15^{3/4}$ English cubical feet; a foot therefore costs from 1s6d to 2s. Choice timber sells as high as 16 rupees a candy, or 1s 10d. a cubical foot." This shows that the British understood the commercial importance of teak timber. "Notwithstanding the coast of Malabar may be considered the storehouse for Bombay, yet the demand for teak timber has so much increased that within three or four years large quantities have been imported from Rangoon."²

(From Malabar they also learnt the right of inheritance and began to argue in its favour, and implemented this right in other areas when they annexed forests in other parts of the country, even in Burma.) Within a few years after the first attempt to extract teak from the Malabar forests by European Syndicates there was an impression among the British that since this area was under Tipu the right of felling teak had been an exclusively royal privilege. It meant that teak was a "Royal" tree. And since they inherited Tipu the company now hoped to inherit that legal position. As they thought in August, 1800, the Court of Directors accordingly authorized the Bombay Government to assume this right on behalf of the East India Company. However, for some administrative reasons this was delayed for a few years and on 25th April, 1807 through a proclamation the East India Company assumed this power, and all unauthorized felling of teak by private individuals was prohibited.

(The necessity of forest protection also came in the mind of the British when they were carrying out experiments in Malabar forests. The initial step towards forest protection was taken by the government in about 1800. According to British method a commission was appointed to enquire into internal circumstances of Malabar and probability of profit in future.) On the report of the Bengal-Bombay Joint Commission thus appointed the government made regulations prohibiting the felling of teak below 21 inches in girth (this was usually measured four feet

above the ground). No further action was taken upto 1805. But the question of protection of forests captured the attention of the British.)

(Around 1805 – 06 the imminent war with Napoleon made the British alert about the position of the Royal Navy vis-a-vis the French Navy. Hitherto English Oak was mainly used for ship-building in Britain. But before 1800 English Oak was almost depleted. By 1805 the Royal Navy perhaps informed the government of the inadequacy of standard Oak for ship-building and asked to find out a substitute for Oak.) It is assumed that on the report of Royal Navy the British Government requested the Court of Directors of the East India Company inquiring to what extent the King's Navy might depend on a permanent supply of teak timber from Malabar. This enquiry resulted in the immediate nomination of a forest committee charged with a comprehensive programme on two major points. First, the capacity of the forests themselves, and second, the status of proprietary rights in them. Thus the first real interest aroused in the forests of India. The main inspiration behind it was the safety of the empire which depended upon its 'Wooden Walls'. Military attitude, thus, preceded commercial attitude towards the protection of forests.)

(The reports submitted by the forest committee were by no means encouraging immediately. However, two things were known from this report. First, in Malabar the capacity of the forests in mature teak timber had been over estimated, and forests had been almost cut out. Secondly, it pointed out that if protections were afforded the forests a valuable property would be gradually built up. Protection, thus, proved the next necessity if the forests were to be saved from total ruin and disappearance.)

(The Committee's report was immediately followed by a general proclamation. It declared that the royalty right in teak trees claimed by the former government in the south of continent was vested in the Company and all further unauthorized fellings of this tree were prohibited.³ Under further pressure from the Home Government, and with regard to the maintenance of the future strength of the King's Navy, the decision was taken to appoint a special officer to superintend the forest work. His duties were to preserve and improve the production of teak and other timber suitable for ship-building.) (Captain Watson of the police department was the officer selected and he was appointed the first Conservator of Forests in India on 10th November, 1806. First Forest Conservancy was started in Malabar and Travancore regions. This path will be followed by other parts of India in future.) In this way forest conservancy took root in India — not out of love for forests, not for their environmental consciousness, not to maintain ecological balance — but simply because of the interest of the

British Navy which was interconnected with British imperialism and commerce almost all over the world. With this, however, commercialization of forests received a major thrust.

(Experience in Burma also helped the British to formulate the forest policy in India. In 1826 by the treaty of Yandaboo the Tenasserim Province and in 1852 in the wake of second Anglo-Burmese War Pegu of Burma came under British occupation. The forest committee which was set up to report on the potentiality of Malabar forests of getting continuous supply of standard wood pointed out the depleted condition of forests in that region. With the occupation of Tenasserim a new source of standard wood was visible.) To exploit this new source for 'military and commercial objects' Dr. Wallich, the Superintendent of Calcutta Botanical Garden was deputed in 1827 to examine the potentials of Tenasserim forests. His report pointed out the utility of forests and method of forest operations which were of great help to the British in future. (In his two expeditions he found different trees to be used for different purposes and drew the attention of the government to the forest wealth of Tenasserim for military and commercial utility. He reported that besides ship-building different trees of this area might be used for gun carriages, country-boat, naves and charcoal for gun powder, posts of house-building, planks, burning bricks and as mere article of fuel. Secondly, to facilitate the commercialization of the Tenasserim forests he pointed out the utility of the river system, streams and nullahs of the area. He reported that the network formed by the streams and nullahs was quite adequate to float with ease all the timber which could be felled in these forests. In some cases elephants can be used to bring out logs from the dense forests. He further reported that bamboos could be employed in floating out the timber and subsequently used by the Military Department in Burma and Bengal. Thirdly, he also gave an idea of labour cost in connection with the transportation of bamboos which were in need in Bengal Commissariat to be considered by the government. Fourthly, although it was not accepted at that time but Dr. Wallich was the first to propose that teak forests should be protected as Reserved Forests and Modified reservation in respect of some other valuable trees.) But he thought it judicious to keep these in the hand of private persons or speculators in exchange of some revenues according to ad valorem duty on tree and licence system was being encouraged. But with the passage of time government understood the importance of Dr. Wallich's proposal and introduced it in India. Dr. Wallich was followed by Dr. Helfer, Captain Tremenheere and Captain Guthrie who placed proposal after proposal before the government but nothing was done to improve the conditions of forests. Only the proposal of Mr. Colvin to set up a small Forest Department in Tenasserim was accepted. Up to 1857 this licence system and small Forest Department were the only notable achievements in Tenasserim.

(Further experiments in Tenasserim and Pegu under Dr. McClelland and Sir Dietrich Brandis brought the theme of Scientific Forestry and showed the government ways towards future. Forest Management in a form was initiated by Dr. McClelland but it was turned into a science by Brandis. In Burma Brandis introduced a system of Valuation Surveys, so eminently adapted to the circumstances, that with but slight modifications it is still in force up to the present day. Secondly, he proposed the selling the whole of the seasoned timber in a certain forest to the highest bidder. Thirdly, he gave proposals to stop timber theft which produced satisfactory results. Fourthly, for the improvement, extension and consolidation of the forests Brandis prescribed pruning, plantation, nurseries in “toungyas” or hill plantation, scattering seed in cleared portions of the forests and consolidation of teak forests. He also proposed construction of roads to facilitate the commercialization of forests. Besides, he started a central timber depot in Rangoon; he introduced the system of ‘division’ in forests; he was instrumental in making ‘working plan’ as guide to the foresters for future forest operations in a specified area. As his method yielded good results, all this formed the basis of the British system of reserved forests.)

(Recently it has been argued by some that commercialization was not the solitary motive behind the so-called scientific forestry of the British. They do not rule out a pre-history of colonial forests conservation that had more to do with ecological concerns. R.H. Grove points to the idea or fear in the early colonial state that uncontrolled destruction of the forests would cause climatic change, and thus lead to draught, famine and, eventually, to social disorder. This idea was propagated by an influential group of scientists, mainly medical surgeons, serving in the East India Company, who, according to Grove, succeeded in establishing conservationism or Environmental interventionism as part of the responsibility of the Colonial State.⁴ Grove agrees with those who argue that the demand for timber for railway construction in the 1860s became a central driving force for the development of the imperial forest policy, but says that this alone cannot explain the extension of government forest control in India) According to him, beside the need to control unruly tribal groups in marginal forest and hill tracts, “the fear of climatic change remained an important motive.” Reading colonial documents relating to the forest, one indeed often comes across references to such a motive, or a sort of underlying assumption that state control is motivated by the need for protecting the forest against uncontrolled destruction by local people and private commercial interests.⁵ The strength of Grove’s analysis is in his recognition of the significance of ideological issues and the debates among colonial administrators.⁶ Theoretically the position was correct, or it might be to camouflage the ulterior motive of the British. In practice it was seen that initially the forest was under the revenue department which explicitly spoke that commercialization was the major out look of the British in forest management. The British Government added environment to their single motive of

commercialization only to keep others out of the forest and monopolize the forest operation to their monetary benefit. In fact, the true outcome of the British penetration of forest tracts, like Darjeeling and Duars was in most cases a historically unparalleled deforestation. Annual reports and working plans also reflect the same thing. E.Somanathan, Ram Chandra Guha and Madhav Gadgil also hold the view that forest conservation in India originated from the imperial need for timber.⁷ Grove did not examine how the ideological ideas actually influenced changes on the ground.⁸)

(Be that as it may, during the early days of their rule, the British neither formulated any rule for forest operation nor made any attempt for the preservation of forests. They took the forest resources in India as 'inexhaustible'. Even there was no forest organization, let alone forest department. Valuable timbers in large quantities were exported to England for the construction of the Royal Navy. They thought of Indian valuable timber from the strategic and commercial imperatives of a trans-continental empire. South Asia acquired a new significance in the context of Anglo-French rivalry and the need to tap new sources of wood for shipping.) Naval rivalry accentuated the problem of the shortage of timber within Britain. By 1760 the demand for the Royal Navy had resulted in a scarcity of oak along the Welsh Coastline and in parts of England. By 1809 the combined tonnage of British fleet was over four million tons, but the continued expansion of the navy and of the fleet of merchant ships became difficult. There were very few large oak trees left in English royal forests, and planting had been persistently neglected. At the same time the notion that the retreat of the woods was a sign of progress was still widespread. (The decline of oak was seen as a sign of 'improvement', as agricultural crops were more remunerative to land owners than plantations of slow-growing oak trees. Large landowners in parts of Scotland did take to tree planting, but this was mainly in reaction to internal market demand, and did not help supply wood for ship-building yet, the global search for timber was not merely an outcome of an absolute shortage of the raw material. It was also a response to the strategic isolation of Britain during the revolutionary and Napoleonic wars between 1793 and 1815.) The Baltic supply lines for ship timber were cut off due to the neutrality of the Baltic countries during the blockade. The British then reached out to distant sites including the Cape, New Zealand and Australia.⁹ But they overlooked the potentiality of the Indian forests because of their agricultural constraints and Mughal legacy.

(At the close of the 18th century the position of forestry was no better than before the advent of the British. The government exploited what it required and the people also obtained all their requirements without difficulty. There was no preservation of forests. Moreover, the general policy was to expand agriculture and to obtain teak and other timber for constructional

purposes. The unrestricted exploitation soon found its consequences. Forests rapidly diminished and adequate quantities of timber could not be obtained. So, towards the first decade of the 19th century the British came to realize the necessity of conservation of forests.)

(The record of ship-building by Indian and European rivals of the East India Company gave cause for the hope that Indian teak would supply wood for British shipping. By 1800 ships built in India had already been deployed in places as distant as Java and the Red Sea.¹⁰ Now the British took the forest a bit seriously but forest policy was far off. Between 1800 and 1806 the British progress towards forestry can be thus summed up: First, in 1800 a commission was appointed to enquire into the availability of teak in the Malabar forests. Second, in 1802 the Earl of Vincent called for the regular construction of ships of Indian teak in Bombay. Third, on the basis of commission's report unauthorized felling of trees in the south was prohibited. Fourth, a forest committee was constituted in 1805 to enquire into the capacity of teak forests and the status of proprietary rights in them; the British proclaimed royalty rights over the teak trees in the south. And lastly, on 10.11.1806 Captain Watson was appointed by the Madras Government as the Conservator of Forests.)

{ The Conservator soon established a timber monopoly throughout Malabar and Travancore. But the repressive methods by which this was done by him and later his successor were intolerable, and gradually it gave rise to seething discontent amongst both proprietors and timber merchants.¹¹ Added to it, the local officials pressed ahead, and in 1807 they claimed that they had a monopoly on all wood on private and public land in both Malabar and Travancore. Peasants were not even to be allowed to cut trees for fuel. Early colonial officials including Dr. Wallich (Surgeon and Botanist) held that complete control of forests by the government was both desirable and necessary.) However, there was no question of unanimity of opinion among officials. (Thomas Munro argued that the residents of Malabar planted and protected trees on a regular basis. A free market in wood was all that was required in order to help preserve and replenish tree cover. Munro favoured a minimal role for the government, and had a deep faith in the ability of peasants and other landowners to act in their own long-term interests. Other officials favoured limited state intervention in preference to monopoly control or a free market) The government was in a fix, but they found strength in the argument of Munro, and as a result the post of Conservator was abolished in Malabar in 1823.

{ But that did not bring any good to forests. In 1829 private extraction and trade was resumed under supervision. But absence of government regulation failed to stop excessive deforestation. In 1830 Raja of Nilambar in Malabar argued that government regulation, but not monopoly on the trade in wood, was essential to stop the destruction of all valuable trees. In

1830 the government of Bombay felt the need to appoint again a Conservator to protect teak. In 1831 the Indian Navy Board recommended the re-establishment of the Conservatorship. By this time the Botanists and Surgeons showed anxieties about deforestation and warned the Government that excessive deforestation might lead to general aridification. From 1839 onwards Alexander Von Humboldt's argument linking deforestation, aridification and temperature on a global scale caught the attention of the surgeons in India.) In Bombay presidency Dr. Alexander Gibson and in Madras Asst. Surgeon Edward Balfour by 1839 had started to persuade the authorities on the need for conservation of forests. In the same year Admiral Malcolm reported to the Bombay Government that he favoured the revival of the office of Conservator. Till then, the Government could not make up its mind about the future of forests in India. (On the one hand, the Government think that an abundance of wood increases moisture and that a deficiency promotes aridity; on the other hand, in 1841 Lieutenant A.W. Ball of the Indian Navy cuts trees in the forests of inner Himalayas, and floats logs down the Sutlej and Beas) Ball hopes to demonstrate that 'exhaustible forests' of the interior can replenish supplies in the plains and on the Western Coast. It shows that government had no forest policy at all. As late as 1842 the Court of Directors considered that some Teak plantations of limited extent might be established to safeguard the future, and that the present supply could best be arranged under contracts.¹² As a follow up, plantation of trees was taken up in Malabar in 1842. During this period Mr. Conolly, Collector of Malabar urged his views of scientific forestry again and again and succeeded in creating a small local Forest Department in order to provide timber for his district. To save the forest from disappearing he in 1842 laid the foundation of the famous Nilambar plantation. Though the necessity of scientific advice was beginning to be more constantly urged, it was not till 1847 that the Bombay Government appointed Dr. Gibson as Conservator of Forests.) Madras did not follow suit, but in 1856 appointed Dr. Cleghorn to be Conservator of Forests in that presidency. A circle was completed – apparently the British Government started again from a point which they left in 1823. (But it is undeniable that by this time they became mature enough to take steps towards forest conservation. This is revealed from the reports of Dr. Gibson and Dr. Cleghorn. In their reports the physical value of the forests was for the first time taken into consideration. Dr. Gibson reported that destruction of the forests by over felling and the rapid increase of shifting cultivation had led to the silting up of rivers. Dr. Cleghorn drew the attention of the government on the same line. Besides, both officers strongly advocated that government should claim and exercise the proprietary right to all such forests as could not be clearly proved to be private property. Secondly, they were in favour of a stricter conservative control. Thirdly, they wanted an immediate restriction of shifting cultivation in the hills. Future will prove that they were in right direction and they set their minds for strategic and commercial ends. But the government was lagging behind. The Colonial Government of India till the middle

of the 19th century could not make its mind to formulate a uniform Forest Policy in British occupied India.) At the same time, it should be mentioned that the work of Conolly along with Chathu Menon, an Asst. Sub-Conservator in Nilambar teak forest was an eye-opener to the British. They were pioneers in teak plantations. (These plantations were highly successful and over the years became world famous. (This afforestation activity forced the Directors of East India Company to undertake improvement of forests of Malabar by forming teak plantations.¹³ On this line uniform forest policy was ahead.)

(Uniform forest policy was the result of the experience of the British gathered in different forest tracts since 1800 quite matured by the geniuses of German foresters in service of the Colonial Government. The introducer of uniform forest policy of the British Government in India was Dr. McClelland, Superintendent of Forests in Pegu, which was annexed in 1852. In 1854 Dr. McClelland, who for months had been travelling in the forests, submitted a report in which he proposed certain restrictions on the unchecked exploitation of forests by private parties. This valuable report evoked a memorable reply by the Government of India, dated 3rd August 1855, in which Lord Dalhousie, the then Governor General of India laid down, for the first time, the outline of a permanent policy for forest administration.¹⁴ This was a Memorandum, which might well, be termed the 'Charter of Indian Forestry'.¹⁵) In this Memorandum Lord Dalhousie formulated the policy for forest conservancy.) "This pronouncement was an act of far-sighted statesmanship and marked the first concrete step towards scientific conservation of the forests."¹⁶

(In his Memorandum Dalhousie in outlining forest policy enunciated the following points: First, he pointed out that on the annexation of the province of Pegu it was laid down as the ruling principle in the management of the forests that the teak timber should be retained as state property. Second, that in consequence all killed standing trees and felled trees still lying in the forests, as also standing green trees, were public property to which individuals had no right or claim. Third, that the two former categories should be disposed of in such a manner that the full price of the timber should accrue to the government and not go to swell the profits of timber traders. Fourth, that in the case of standing green trees which had reached exploitable size they should be removed in conformance with the future proper maintenance of the forests and not be exploited for the benefit of timber merchants and to the ruin of the forests, as had been the case in the Tenasserim Forests.)

(By this pronouncement, for the first time, the British declared forests as valuable goods – goods which needed protection and proper distribution. The implication was that there existed a conflict between the people and the forests and that the conflict had to be managed. Lord

Dalhousie's pronouncement was the act of a far-sighted statesman and proved him to be a man far ahead of his times. It marked the first real step towards the scientific conservancy of the forests. Soon afterwards appointments of Conservators of Forests in some provinces followed. In 1856 rules for conservancy of trees and brushwood in Rawalpindi district were published followed by forest conservancy rules in Hazara in 1857. This marked the commencement of the much needed protection for the forest areas of Punjab. By this time, as a result of the revolt of 1857, the country began to be opened up by a network of railway lines and roads. To satisfy this growing demand, sound principles of conservation were all but abandoned and forest destruction went unabated.¹⁷ Large stretches of forest land were cleared to lay roads, railway lines, bridges and the best timber from adjoining areas were converted for manufacture of sleepers, planks for railway coaches and bridges, as well as to meet the various types of growing demands of fast developing military centres where Barracks for British troops were being constructed in the aftermath of the revolt of 1857. Devastation of such a magnitude, however, led to some concern and serious thought was given to protect and develop the forest resources of the country.¹⁸)

| At about the same time (1858–64) exotic acacias and eucalyptus species were introduced in Nilgiris. Plantation activity thus became a recognized part of forest conservancy. Publication of a book "Forests and Gardens of South India" by Cleghorn, Conservator of Madras Presidency catalysed the forest conservancy works.)

| The British Government was on the line of organized Forest Management. Dalhousie's Memorandum was taken seriously and some steps were taken to implement this. First, in the year 1864 the Government of India took the important decision of treating forests as state property. The idea of allowing proprietary rights in forests to individuals was abandoned. Secondly, all government forests were made inalienable. Thirdly, the need for exercising great care in disposal of waste lands containing forests was given due importance. Fourthly, demarcation and fixing the limits of forests to be preserved were felt essential to be taken up immediately. Lastly, in 1864 an organized state department under an Inspector-General of Forests was established. The government emphasized the need for a comprehensive Indian Forest Act carrying out an All India Forest Policy. The systematic management of forests began with the appointment of Dietrich Brandis, a trained German forester, as the first Inspector-General of Forests in 1864. However, all this was not Forest Act, they were the results of the spirit of the Memorandum only. But this spirit acted on the British Government of India when it passed the First Indian Forest Act in 1865. The major significance of the Memorandum was that the objective of management of forests changed from obtaining supplies of timber for various purposes to protecting and improving forests and treating them as a biological growing entity.¹⁹

The First Forest Act of 1865 was directly indebted to the works of Dietrich Brandis in Pegu. His experiments and struggles in Martaban and Tenasserim forests taught the British towards scientific forestry in India and much influenced the later foresters including Ribbentrop. His experiments paved the way for the Forest Act of 1865 in more than one way. Firstly, he introduced from the outset principles of enumeration and organization of the working of the forests which went a long way to form the basis of the working-plans. Secondly, he also introduced measures for the protection and improvement of the forests, and correctly foresaw that if the people of the country could even be brought to plant teak in the shifting cultivation, this would likely to become the most efficient mode of artificially reproducing the tree. Thirdly, he introduced the system of selection of trees to be felled and their girdling was placed under the control of the Forest Department. Lastly, he objected to the general introduction of exploitation of forests by private enterprise and proposed to enforce suitable conditions and prices from private timber firms. In fact, his method created a practical system for the working of the forests which was taken into account before the formulation of the first Forest Act of India. If his guidelines were not considered before the introduction of the Forest Act of 1865 the forests of India would have been sacrificed. His activities from 1857 to 1864 foreshadowed the constituent part of the first Forest Act of India.)

☞ **The Forest Act of 1865 empowered the Government in the following ways :**

- (1) The Government reserves the right to declare any land covered with trees, brushwood or jungle as Government Forest by notification, provided that such notification should not abridge or affect any existing rights of individuals or communities.
- (2) Local governments may make Rules for management and preservation of forests and for regulating the conduct of persons employed on them. Such Rules shall not be repugnant to any law in force.
- (3) Powers were given to local government to prescribe punishment for breach of provisions of the Act.
- (4) Rules when confirmed and published have the force of law.

This Act came into operation on 1st May 1865 and was cited as “The Government Forests Act, 1865”.

The most important feature of this Act was that it empowered the local governments to draft local rules for their respective provinces for the better management and preservation of the

forests. The necessity for such forest legislation was borne out by the fact that during the years 1865 and 1866 seven local Governments and Administrations, Mysore, Coorg, Burma, Central Provinces, Berar (Hyderabad Assigned Districts), Oudh, and Bengal submitted draft rules for confirmation to the Government of India, whilst the North-West Provinces and Punjab had such rules under consideration.²⁰)

| In spite of the virtues in some respects certain portions of the Act of 1865 were deficient in many respects. Dr. Brandis first drew the attention of the Government of India to these deficiencies in 1868. He submitted a revised Bill and a Memorandum explaining the necessity for new legislation. On this the local Governments were asked to express their opinions on the draft Bill, which was then redrafted and was again considered by the Government of India in 1871. At a Forest Conference held at Allahabad in 1873-74, the defects of the Act VII of 1865 were discussed in details. Lastly, Mr. Hope, a member in the Viceregal Council showed the defects on 6th March 1878. He pointed out that the said Act, “drew on distinction between the forests which required to be closely reserved, even at the cost of more or less interference with private rights, and those which merely needed general control to prevent improvident working.” Secondly, “it also provided no procedure for inquiring into and settling the rights which it so vaguely saved, and gave no powers for regulating the exercise of such rights without appropriating them”. It thus obliged the government, in short, either to take entirely or let alone entirely. Thirdly, “on control over private forests in the general interests of the community, it was absolutely silent.” Fourthly, “for duties on timber even those actually levied, it gave no authority.” Fifthly, “protection for Government forests, so interlaced with private ones as to be the chronic danger of plunder, there was none.” Mr. Hope also stated that in various minor points also the Act was deficient.)

\Subsequently, a more comprehensive Act was passed in 1878, which classified forests into three categories: (1) reserved forests, (2) protected forests and (3) village forests. The distinction was based on the people's rights over the forest produce. The reserved forests, as the name implies, were to be totally controlled by Government, and the people were denied any access to them. The protected forests could be accessed by the people but restrictions applied as to what could be taken away from the forests. The village forests, on the other hand, were to be community forests providing daily subsistence to the people. For the first time, the Act also established a forest bureaucracy in the form of Forest Settlement Officers (F.S.O). F.S.O's were placed at the local government level and were asked to protect forests from nearby villagers. This Act extended to all provinces of British India, with the exception of Madras, Coorg, Berar, the Hazara District of the Punjab, Ajmer and Baluchistan.)

(Thus, this Act provided for the constitution of 'Reserved', 'Protected' and 'Village' forests. The first draft of the Act was intended to form only one class of demarcated state forests (reserves), and to provide for a limited protection of all other government forest lands until the time arrived in any particular area when it could be decided definitely which particular forests or forest area should be demarcated and constituted reserved forest. This was modified in the Act as passed. The Act does not impose the demarcation of an area before it can be declared a protected forest. The Act requires that the nature and extent of the rights of Government and private persons should be enquired into and recorded previous to the forest being declared a protected one. Even in the case of emergency to declare a forest protected one, it imposes on the Government the duty of instituting such enquiries. It means that existing rights are protected by the Act pending such enquiries.)

\ The guarantee thus extended to the protected forests invites some problems. For, whereas a reserved forest once notified was safeguarded against any possible infringement of private rights and secured a permanent settlement, in the protected forest existing rights were recorded but not settled. Such rights might increase and new ones arise without any limitation, with the result that the forest might eventually disappear and with it the rights of user. The local governments faced this problem immediately and intimated the Government about it, with the result that protected forests were gradually converted into reserves.)

\ The work took time, and for many years the demarcation work absorbed the time and energies of a large part of the staff. This favourable outcome was the result of reiterated injunctions from both the Secretary of State and the Government of India that the selection of the remaining valuable forests and their demarcation should be undertaken without intermission. In 1889-90 there were 56,000 square miles of reserves and nearly 20,000 square miles of protected forests. By the end of the century the reserves extended to 81,000 square miles, whilst the protected forests had an area of 88,000 square miles, (Stebbing II, P.470, 1982). The rate of growth of protected forests was much higher than the reserved forests.)

\ Chapter-III of the Act of 1878 had an intention to provide for the constitution of village forests. It was admitted that village communities and private persons had a right to expect that Government should afford protection to their forest property, both against trespass and damage, and also against the accrual of new rights. The procedure demanded that the forest should first be created reserved forests and this provoked the suspicion of the owners with the result that the chapter III of the Act throughout the remaining part of the century had remained inoperative.

Another legal lacuna of this Act was pointed out by Ribbentrop, an Inspector General of Forests and a contemporary historian of Forestry in India. He analysed the Indian Forest Act of 1878 and subsequent separate Acts for Burma (1881) and Madras (1882) and showed the shortcomings in the following words: "All three Acts provide for the control over forests and lands not belonging to the State, if such control appears necessary for the public weal, or if the treatment such forests have received from their owners injuriously affects the public welfare or safety; but the provision that the owner of the land can require the Government to acquire the land in question under the Land Acquisition Act has rendered special legislation necessary when such interference was deemed necessary as for instance in the Hoshiarpur 'chos' in the Punjab."²¹ To bridge this and other gaps numerous sets of local rules were drafted and passed after the Indian Forest Act VII came into force.

(The British policy, although claiming to be solely in the public's benefit, introduced a new dimension to the forest issue. First of all, the policy emphasized the commercial use of forests. Forests were viewed as valuable source of raw material to support British industrial revolution.²² Second, the policy was perceived as the policy of managing forests from the people rather than for the people. A number of protests that were raised after the adoption of the Acts also reveal this perception. Third, the policy asked for governmental intervention and, in later years, also institutionalized this interventionist role. The role that was adopted was of a regulator and not of a mediator alone. Last, by emphasizing and then by allowing the commercial value of forests, the policy defined the forest issue as an economic one. The economic elite entered the scene and used forests as means of participation in the growing and modernizing economy. On the other hand, the people who were forest owners by tradition were transformed into labourers. Forests thus provided a rich ground for the extension of capitalism and imperialism.²³)

But it is debatable whether the Act of 1878 can go to that extent immediately as held by Renu Khator. How British industrialization at that stage was helped by the Act of 1878 was not clear. Some modern scholars hold, "it did not preclude commercial use of timber in terms of scientific working plans".²⁴ At the same time it is undeniable that the new Act was more comprehensive and stringent, and further cut into the local use of forests than ever before. The Government held absolute rights of ownership in reserved forests and their products were not to be used by locals unless specifically permitted by way of grant of privilege and not as a matter of right. Access to these forests was restricted, except as thoroughfare in permitted routes. The ostensible motivation underlying the reservation of forest was to protect them against uncontrolled grazing and cultivation, and permit only a sustainable use of forests. In the protected forests the local's access and privileges were permitted for the time being except in

those cases where they were specifically prohibited (as in the case of cutting valuable timber-yielding trees). It was in the case of village forests that the rights of locals were conceded in respect of grazing, fuel needs, requirement of small wood for implements, and own house construction but not for sale or barter. The extension of cultivation was possible only when permitted, and such permission was available only in areas where the exercise of local privileges was allowed, but not in the reserved forests. Because of commercial value of timber, forests rich in standard timber were invariably reserved, leaving relatively less productive areas for the exercise of local use. Regulations, in a sense create crime. The Act thus became the seed-bed for timber theft. The villagers began to say, "If the forests are made reserves we shall always be criminals."²⁵ ↯

(Forest Department was created, and it took the care of the forests. Under it forests were demarcated, surveyed and mapped. Now it was considered necessary to lay down certain general principles on which they were to be managed. At this stage the Government of India invited Dr. Voelcker to examine the conditions of agriculture in the country and suggest how it could be improved. Dr. Voelcker submitted his report on "Improvement on Indian Agriculture" in 1893. In Chapter VIII of this monumental report he discussed at length the condition of the forests and stressed the need of formulating a forest policy with a definite bias for serving agricultural interests more directly. On the basis of his recommendations the Government of India issued Resolution No. 22F. Dated 19th October, 1894, declaring its forest policy. This was a landmark in the history of forest management in India.²⁶ According to this policy the Government of India were guided by the following:

- (1) The sole object to which the management of forests is to be directed is to promote the general well-being of the country.
- (2) The maintenance of adequate forests is dictated primarily for the preservation of the climatic and physical conditions of the country, and, secondly, to fulfil the needs of the people.

Subject to these conditions :

- (a) Permanent cultivation should come before forestry.
- (b) The satisfaction of the needs of the local population at non-competitive rates, if not free, should over-ride all considerations of revenue.
- (c) After the fulfilment of the above conditions, the realization of maximum revenue should be the guiding factor.

The Government Owned Forests were classified with reference to their primary functions under four heads.

- (I) Forests, the preservation of which is essential on climatic or physical grounds.
- (II) Forests which afford a supply of valuable timbers for commercial purposes.
- (III) Minor forests which include tracts which, though true forests, produce only the inferior sorts of timber or smaller growths of the better sorts, and
- (IV) Pastures and grazing ground proper, which are usually forests only in name. ²⁷)

The above classification was not intended to be rigid and a particular forest might fulfil more than one function. The earlier classification of reserved and protected forests was not dispensed with, but could be applied to these categories. The question of restricting locals from using any of these classes was to be decided on the basis of whether the 'public benefit' from such restrictions was to be almost absolute in the first category with relaxation extending as one moved towards fourth category. Even in regard to second category, the consideration of forest income was to be subordinated to the satisfaction of local needs. It was the less productive minor forests, that is third category, producing inferior quality timber or only small growth of better sorts and pastures, that is fourth category, which were mainly expected to meet local needs. It is worth remembering here, however, that these areas were not intrinsically less productive but could have been rendered so because of the untrammelled exercise of rights over what was regarded as common property. Thus anyone could cut timber for their own use, but its regeneration was left entirely to nature. Even in the use of third and fourth categories of forests, certain restrictions were put on the ground that the "User must not be exercised so as to annihilate its subject, and the people must be protected against their own improvidence." Forest land could be given for cultivation, only if it did not disturb the consolidation of forest land, if cultivation was on a proper and permanent basis, and if it did not affect the forests that were either yielding good income or meeting local needs.

It may be noted that the ultimate control and ownership of classes of lands vested with the Government, though in the fourth category, rights of individuals and communities could be even statutorily recognized. A lenient attitude was expressed towards the end of a policy statement, which indicated a preference for a more generous application of the forest law so that the needs of agriculture and of the local people were respected. It says:

“The Governor-General In Council desires, therefore, that with regard both to fuel and fodder reserves and to grazing areas pure and simple and specially to such of them as lie in the midst of cultivated tracts, it may be considered in each case whether it is necessary to class them, or if already so classed, to retain them as forest area, and if this question is decided in the affirmative, whether it would not be better to constitute them protected rather than reserved forests.”²⁸

While the fundamental facts emphasizing the need for conserving the forests as stated in 1894 policy were still true, it was not without drawbacks even in contemporary period, let alone in independent India. First, the policy of 1894 was applicable to the forests under the management of the Forest Department, with the result that other government owned lands were not covered by it. The control of the management of private forests was also to be provided for in the new statement of forest policy. Secondly, it made it clear that the over-riding consideration would be ‘public interest’, which could well be interpreted as the interest of the larger economy; where it conflicted with local interest the latter had to be subordinated. Thirdly, though this is understandable, the policy did not spell out the organizational reform needed to safeguard local interests at least where they did conflict with public interest, and to protect the environment, conserve valuable species and ensure their regeneration. Fourthly, it did not emphasize the need for managing the forests on the principle of sustained and, where possible, progressively, increasing yield of produce most in demand. This drawback may be seen in another way. While the area available for local use was on the decline, no attempts were made to raise the productivity and sustainability of whatever area remained for local use. Fifthly, the policy did not give a definite indication of the extent of forests in the country as a whole and in particular tracts that would constitute a minimum, and should lay down steps that would lead to this ideal. Sixthly, the policy did not take into consideration the conservation and growth of forests, nor a system of incentives for the locals to grow trees and protect and develop forests. It hardly helped in making actual forest management people-oriented, and the alienation of the local population from forest development continued. The policy did not take into account the necessity to spread the message of forestry amongst the people to convince them that their welfare depended on successful forest conservation; nor it indicated that the claims of the neighbouring communities should, in no event be admitted at the cost of jeopardizing national interest. Seventhly, it did not consider the necessity to manage systematically the forest forming the catchment of important rivers, and did not put importance to river system to facilitate commercialization of forestry. Side by side, it did not hold that wild life was an integral part of the forest and a valuable asset, as a result, it did not lay down a suitable wild life policy. Lastly, it did not consider desirable to emphasize that Government should provide the best facilities for

training in Forestry and for research in the various aspects of forestry, as also maintain a liason with the industries utilizing forest products. Even the problem of shifting cultivation was not dealt with properly.

It is true that the forest policy of 1894 had many defects, and it is rather easy to find fault with any Act or Policy in later period. In fact, no Act or Policy declaration is full proof. Defects surface during the period of its implementation or when an action is judged by time. The Forest Policy of 1894 had merits as well as drawbacks. Notwithstanding its drawbacks the policy evolved during this period continued for a long time in all its essential detail. Even the Indian Forest Act of 1927 which institutionalized 'commercialized forest-management' and the policy statement of 1952 made no basic departure from it.²⁹)

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