1888 B

Proceedings of the Madras Government, Revenue Department, 9th August 1872.

Read the following :—

No. 87A. Proceedings of the Board of Revenue, dated 18th March 1872, No. 464.

Read the following letter from the Collector of Malabar, to the Secretary to the Board of Revenue, dated Calicut, 1st March 1872, No. 56.

I HAVE the honour to inform you that the Survey authorities are at present engaged in deciding the boundary of Mr. Ouchterlony's land on the confines of this district and the Nilgiris. On hearing that this was the case I addressed Colonel Priestley on the subject, and subjoin copies of my letter and his reply. In writing to Colonel Priestley I merely alluded to the boundary on the Malabar side, but that on the Nilgiri side is equally matter of contention.

2. I think it right to place the circumstances of the case before the Board, in view to legal opinion being obtained as to the steps proper to be taken in connection with it. If a decision is come to by Captain Sargeaunt adverse to Government, and if it is not successfully appealed against to Colonel Priestley, Government will, I presume, be bound either to relinquish their claim to any of the land settled to belong to Mr. Ouchterlony, or to prove their title as plaintiffs in the Courts.

3. The land is situated on the confines of the districts partly in the Nilgiri District and partly in Malabar.

As, however, all the correspondence regarding the Nelamboor Suit was conducted in this Office, and as the case would probably be referred for trial in this district, the Commissioner being a party, it seems right that I should go over the entire case. As, however, the land is adjacent to the Hills, and as the head quarters of the survey are there, I would suggest that to the Commissioner should be entrusted the task of representing Government rights on the spot.

4. Mr. Ouchterlony's title is based on a deed from the Nelamboor Rajah, who claims the land under a sale of the Nambalacotta Varnavar's estates by the Court. Now this is exactly the title on which the Nelamboor Rajah claimed the Nediwattam and Pykara Cinchona plantations, and the suit was decided against him.

5. Two other deeds, A and B, were relied on, purporting to be transfers of property by a surviving female member of the Varnavar's family, but it was clearly proved that the Munsif sold everything, and that nothing remained to transfer—*vide* paragraph 14, Civil Judge's decree, printed with Board's Proceedings dated 20th October 1870, No. 6,246.

6. The Government defence mainly consisted in drawing a line on the Map, known as Richardson's line, and demarcating it on the face of the country, and proving that every single hill and paddy flat, enumerated in the Court's deed of sale, as also in A and B, was situated to the north-east of that line. Consequently, that the sale conveyed nothing to the Rajah south-west of that line, and therefore not the tract in dispute.

Vide Government Order, 1st June 1866, No. 1,331.

Now the whole of the Ouchterlony Valley lies to the south-east of that line, and if the same point could be again established, it would, of course, follow that

Mr. Ouchterlony has no title under that sale to any property situated south-east of the line in question.

7. I shall now proceed to describe the land claimed by Mr. Ouchterlony, as shown within a red line in Captain Sargeaunt's sketch. First there is a triangular piece below ghauts. As regards this Government are not concerned. It comes almost, but not quite, into the Government Teak Forest of Nellikutta. The land belongs, and has always belonged, to the Nelamboor Rajah's own estate in the Ernad Taluq. This is, so far as I know, the first time that it has ever been hinted that the land obtained by Mr. Ouchterlony on deed from the Nelamboor Rajah comprised land below ghauts in the Ernad Taluq. The deed, dated 1856, specified lines to be drawn in a certain direction from certain points, and scientific observation now brings the point of intersection as shown. Whether it is right that parties should be placed in possession of land by means of an inquiry arising on a survey on such ground as this, after sixteen years of possession by the opposite party, seems questionable.

8. Next comes a strip of ground, bounded on the north-west by the line from Gudalur Mullay to AB, and on the south-east by Richardson's line. Regarding this again there is no dispute as far as Government are concerned, as they claim nothing north-west of Richardson's line.

9. Next comes the large tract of country between Richardson's line and the dotted red line, denoting the first ridge of hills above Wynaad. This comprises the whole of what is known as the Ouchterlony Valley, including some 3,200 acres of Coffee estates.

Regarding this it may be said that the whole of it belongs by right to Government. Besides the estates, it includes a considerable extent of land of little value and some fine sholah at the foot of the slopes on which the valley estates are yearly encroaching. This extent is considerable in what is termed the Nilgiri Peak Valley, *i.e.*, the southern section of the valley.

10. I may here allude to Captain Godfrey's claim, which is indicated by a dotted black line in the sketch. The facts are, I believe, as follow :—Prior to Mr. Ouchterlony's deed Captain Godfrey obtained a deed from the Nelamboor Rajah, assigning him land within certain boundaries, 600 acres. This deed is, I believe, interpreted according to Mr. Ouchterlony's contention to mean that Captain Godfrey is to have exactly 600 acres by survey, and Mr. Ouchterlony, who obtained the subsequent deed, claims all the rest and a great deal more. The agreement is, however, I believe, susceptible of the interpretation that the whole land within the specified boundaries is conveyed, and that the supposed acreage is merely added, and does not limit the area as defined by well-known boundaries.

11. This question has given rise to endless litigation, in which nothing has, I believe, been definitely settled. Captain Sargeaunt is at present adjudicating between Mr. Ouchterlony and Captain Godfrey, but if the Government title is admitted, of course neither has any *locus standi* on title derived from the Nelamboor Rajah. As already stated, more valuable forest remains to be felled in this than in any other part of the tract.

12. So far I have referred to the land as exhibited in the sketch, but it only indicates Mr. Ouchterlony's boundary on the north-west, and partly on the south.

I am, however, aware that he claims a large tract eastward from the Nediwattam bungalow towards Pykara. This land is in exactly the same position as that which formed the subject of the late suit, being grazed over by herds of Toda buffalo, and having been subject to various acts of Government, such as making roads, etc. I believe that recently Mr. Ouchterlony has been objecting to the picking of moss on it by the Government gardeners. This part is now undoubtedly in the Nilgiri District, and I merely allude to it here to complete the case. The boundary between the districts is not very clearly defined, but the Commissioner and I have, in a joint report, recommended that it should follow Richardson's line, and thence to the big rivers and back, along the crest of the ghaut to Nilgiri Peak. If that suggestion is adopted the whole of the third tract described by me would be thrown into the Nilgiri District.

Vide paragraph 18 of the Civil Decree.

13. As yet nothing has been done in the way of asserting the claims of Government to any part of the land before the Survey officers so far as this district is concerned, beyond the communication to Colonel Priestley, to which I have already alluded, what steps may have been taken as regards the Nilgiri District I do not know.

14. It will be observed that Colonel Priestley suggests that the parties should meet to view the lines claimed, and this appears to me the best plan that can be pursued; but it is necessary first that the Commissioner of the Nilgiris and I should be informed as to what is to be claimed for Government. The higher portions of the land can be most conveniently visited during March and April, but after the monsoon breaks could not be worked in for several months.

15. The lower parts, on the other hand, will be feverish till the monsoon breaks, and are healthy from July to January.

I have informed Colonel Priestley that I have referred for orders.

To facilitate reference I append a list of papers referring to the subject.

Enclosure No. 1.—Plan.

Enclosure No. 2.—Correspondence.

Enclosure No. 3.—Collector's Memorandum.

Enclosure No. 4.—List.

These papers will be submitted for the orders of Government.

2. In Government Order dated 30th March 1865, No. 701, (explained in Government Order dated 13th October 1865, No. 2,477), Government declared the claim of the Nelamboor Tirupad to a large tract of land which includes the Ouchterlony Valley to be invalid. The titles of Messrs. Ouchterlony and Godfrey, which were obtained from the Tirupad, were thus declared invalid also, but Government directed that all *bonâ fide* titles derived from the Tirupad prior to the date of the

order should be respected, the extent, position, etc., of the estates being duly registered.

3. It is now brought to notice that the boundaries of the Ouchterlony estate are still undefined. A large piece of land in the Ernad Taluq below the ghauts, which has always been in the possession of the Nelamboor Tirupad, is said to be now claimed for the first time. On the east there is some valuable forest at the foot of the slopes and an indefinite tract of waste land east of the Nediwattam bungalow which are claimed by Mr. Ouchterlony.

4. The Survey Department have commenced to demarcate the boundaries.

5. The evidence produced by Government in the Nelamboor case was held by the Court to prove a boundary line which is inconsistent with the supposition that the Ouchterlony Valley ever formed part of the Tirupad's property. The Advocate-General, who conducted the case on behalf of Government, thought that if the Tirupad's agents had set forward his many unquestioned acts of ownership beyond the boundary line, *such as the leases to Messrs. Ouchterlony and Godfrey*, he might possibly not have succeeded in impugning it.

6. The line having been established, however, it may be possible to obtain a decree against the titles of the possessors of the estates in the Ouchterlony Valley, and force them to take new titles from Government.

7. If it is not deemed advisable to go so far as this, an attempt should at once be made to demarcate the land cleared and cultivated or otherwise marked by more distinct acts of ownership than the mere felling of trees or the occasional use of pasture, which are compatible with the right of Government to the land, and that the holders of these estates should be prohibited from passing the line thus established. The result will no doubt be a suit, but it is probable that Government could defend the suit with success.

8. Considering the magnitude of the interests at stake, it seems necessary that the Survey Department should abstain from taking any action with regard to demarcating the boundaries of the estates.

No. 87 B. Proceedings of the Board of Revenue, dated 18th April 1872, No. 622.

Read the following letter from the Commissioner of the Nilgiris, to the Secretary to the Board of Revenue, dated Ootacamund, 4th April 1872, No. 42.

In October last I received a letter from Mr. Wapshare (Mr. Ouchterlony's representative), complaining that coolies under the orders of the Assistant Superintendent, Nediwattam Cinchona Plantation, collected moss and cut wood in Mr. Ouchterlony's land, even to within 150 yards of his house.

2. I issued orders to the Cinchona Superintendent to desist from trespass, and in reply to Mr. Wapshare, pointed out the necessity of demarcating Mr. Ouchterlony's boundary, for which purpose I requested the submission of his Title-deeds.

On the 25th November the Title-deed was received with two plans: one evidently of old date, attached to the deed; the other detached and apparently a tracing from the Survey Map.

The deed is from the Nelamboor Tirupad, and is herewith forwarded. It consists of two parts:—

I., a Karar (*Agreement*) and II., *note to the Karar*. Both are dated 18th December 1845.

The eastern boundary of the land, the subject now under consideration, is described in the translation* annexed to the Karar (I.) as follows:—

"East the Pudinar kunnu (western hill) whereon the Valiya Nediwattam bungalow belonging to me is situated." * * * *

* Translated by the only Clerk in my office who knows Malayalam, it is as follows:—
On the east the single hill to the west of that on which the Nediwattam bungalow stands.
* * * * *
The true translation should be ascertained.

In the translation of the *note to the Karar* (II.) it is said:—"As the boundaries, etc., * * * * * should be more distinctly and positively defined, it is hereby agreed upon * * * that the here-under specified boundaries of the aforesaid ground under the agreement dated 18th December 1845 should be considered permanent."

"The said spot of ground is bounded on the east by the top of the Nilgiris; on the south by * * * * according to the plan attached to this note."

It is clear from this that the note to the Karar (II.) with the plan attached, must be our guide in fixing the boundary line of the estate.

3. The Tirupad's claim to the western slopes of the Nilgiris has, in one form or another, been the subject of correspondence for the last twelve or fifteen years. I have looked up the records of my office, and I find that his claim to "the hill slopes, crests and plateau," east of Nambalacotta proper was held* by Government to be wholly invalid; at the same time the Government declared that they would act with liberality and consideration, and would respect all titles, *bona fide*, derived from the Tirupad on the terms arranged with him.

* See Government Order, Revenue Department, dated 29th March 1860, No. 484.
Do. do., dated 7th Sept. 1863, No. 1,047.
Do. do., do. 30th March 1865, No. 701.

4. There appears to be no question about the *bona fides* of Mr. Ouchterlony's title. Five* demi-official letters from Mr. Conolly, Collector of Malabar, accompany the Title-deed. These show that in answer to an application in 1845 from Mr. Ouchterlony for some land near the Gudalur Pass, Mr. Conolly stated that the land referred to belonged to the Nelamboor Tirupad. Mr. Conolly further professed his willingness to aid Mr. Ouchterlony in acquiring the land as far as was consistent with his position as Collector of the district.

* Dated 2nd June 1845.
,, 10th ,, ,,
,, 27th Sept. ,,
,, 21st Oct. ,,
,, 4th Dec. ,,
} Calicut.

Soon after this, the deeds were executed, and the Tirupad made over the land, which is now covered with Coffee trees and studded with European bungalows and pulping houses.

5. It remains only to settle the exact line which is to be taken for Mr. Ouchterlony's eastern boundary.

6. To arrange this I deputed Captain Sargeaunt, Revenue Survey Officer, to meet Mr. Wapshare on the ground, and mark on the accompanying Map (A) "the top of the Nilgiris," according to Mr. Ouchterlony's view. The line first pointed out by Mr. Wapshare is marked D, BBB, KK, D, and runs some way back into what I consider to be the hill plateau.

7. Subsequently, however, I received a letter from Mr. Ouchterlony, dated 17th November 1871, London, (forwarded herewith).

In paragraph 3 of this letter Mr. Ouchterlony points out *that* the eastern boundary line depends upon the construction of the expression "the top of the Nilgiris;" *that* at the time of purchase (1845) the country was a very wild one, and the district of Malabar reached to the Pykara river; *that* the general idea was that his boundary went up to the old public road running past the Nediwattam travellers' bungalow; *and that* no objection was made when "he cut and burned bricks on the hill skirting the road."

In paragraph 6 he quotes Mr. Grant's opinion *that* the only reasonable interpretation of "tops of the Nilgiris" was the water-shed; and goes on to say *that* subsequently in 1866 or 1867 Mr. Grant went over the ground with him, and that Mr. Grant "observed that he wished to have the hill opposite the travellers' bungalow for public purposes, but would leave all the rest up to the road to me (Mr. Ouchterlony), because it had always been looked upon as mine, though the water fell the other way." After this Mr. Ouchterlony affirms that he regarded the principle of the adjustment of the boundary as settled, and marked the same on the Revenue Survey Map which he handed over to Mr. Grant. From paragraph 8 of the letter it appears *that* in 1868, Mr. Ouchterlony heard again from Mr. Grant, who then took an entirely new view and cut him off from the greater part of the water-shed;" and *that*, as Mr. Grant was at that time about to leave the district, Mr. Ouchterlony, to facilitate a final adjustment, offered to make certain concessions, but received no reply. Mr. Ouchterlony concludes his letter by stating *that* the water-shed is the only fair and reasonable interpretation of the top of the mountains; *that* the difficulties* latterly noticed by Mr. Grant might easily be overcome, *and that* he would be content to take that portion of the water-shed which embraces the two ravines at the head of the Gurjud and Hope estates.

* Respecting Toda rights and land sold to Mr. Grimes.

8. It is evident from the above letter that Mr. Grant made inquiry into the matter of Mr. Ouchterlony's boundary, and I regret that I cannot find anything on record in the nature of a settlement or a memorandum recording his opinion.

9. After the receipt of Mr. Ouchterlony's letter I had an interview with Mr. Wapshare, and requested him to meet Captain Sargeaunt again on the ground, and fix on Map (A) the new boundary line in accordance with Mr. Ouchterlony's wishes, as expressed in the latter part of his letter. The boundary line so fixed is marked D, CCC, KK, D, in the Map (A).

10. The words "the top of the Nilgiris" form a vague and unsatisfactory description, and if they stood alone and without any explanatory plan, I do not know that any fairer interpretation could be put upon them than the "water-shed." Literally "the top of the Nilgiris" might be interpreted "Dodabetta,"

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9th August 1872.

east of Ootacamund. But the boundary limits as given in the Title-deed are expressly said to be "*according to the plan attached.*"

When I showed the Title-deed plan to Captain Sargeaunt, he informed me that two trigonometrical points (Gudalur Mullay and Mookooritchi Mullay, Nilgiri Peak) are given in it, and that he can reduce the plan to scale and fix on the ground the line shown as the eastern boundary.

Accordingly I asked him to sketch on Map (A) the eastern boundary as shown by the Title-deed plan. This he has done *approximately* for the present, and marked it DDDDDD on Map (A), showing its relative position (approximately) to the lines CCC and BBB.

Thus the eastern boundary, according to the Title-deed plan, runs in an easy curve, with a north north-easterly direction from the Nilgiri peak to Gudalur Mullay, and does not approach within a quarter of a mile of the old public road running past the Nediwattam bungalow.

11. By the light of the Title-deed plan I do not see much force in the circumstances alluded to in paragraphs 3 and 6 of Mr. Ouchterlony's letter.

I see, however, no objection to making the Nediwattam public road the boundary line for some distance if Mr. Ouchterlony particularly desires it.

It will be a divergence from what (judging from the Title-deed plan) was originally the intention of the parties; but where so large an area is concerned a little more or a little less in this or that direction is of small consequence.

12. Captain Sargeaunt wishes me to call attention to the fact that the Map (A) is but a sketch Map.

To lay down the points with scientific accuracy could easily be done, but would involve an expenditure of time and money which it is not desirable to incur until Government have decided what is to form the boundary line.

For example, it would be observed that Mr. Ouchterlony's bungalow is just without the line DDD. On an accurate survey it might fall just within.

13. It is clear that Mr. Ouchterlony's private road E to F, joining the new public road from Pykara to Nediwattam is without the line DDD.

In the tract of land coloured pink and included within DDD and CCC, there are no Toda Munds, but Mr. Grimes's land referred to by Mr. Ouchterlony is situated therein.

14. Considering all things the long possessions alleged by Mr. Ouchterlony, the indisputable fact that Mr. Ouchterlony's energy and capital have converted a jungle into an extensive Coffee plantation, as fine perhaps as can be seen in any part of India, and the reasons given in paragraph 11 *ante*, I am of opinion that it will be equitable and politic to settle the boundary question *quoad* Mr. Ouchterlony and all *bona fide* holders from the Tirupad in a liberal spirit.

I propose, therefore, that the eastern boundary line should start from the Nilgiri peak and run along the line DDD as near the line laid down in the Title-deed plan as can be conveniently demarcated, as far as to G, where there is a good natural land mark on the hill opposite Mr. Ouchterlony's house.

Then from G in a straight line to E, where Mr. Ouchterlony's private road F, E joins the new public road, then along the road to H where the new public

road joins the old public road, then along the dotted line KK, D, part of the boundary line claimed by Mr. Wapshare.

I have only to add as regards the line DDD to G, that if it should be found on actual survey that any land planted with Coffee trees, or any land which though now unplanted has actually been sold by Mr. Ouchterlony to other parties, falls to the eastward of the line, in that case I would suggest that the boundary line be shifted so as to include such land.

SUBMITTED to Government in continuation of Board's Proceedings, 18th March 1872, No. 464.

2. Acting on the information that on the east of the Ouchterlony Valley "there is some valuable forest at the foot of the slopes and an indefinite tract of waste land east of the Nediwattam bungalow which are claimed by Mr. Ouchterlony," the Board have recommended either that Mr. Ouchterlony's title should be impugned in the Courts or that all land actually cleared, etc., should be demarcated and Mr. Ouchterlony restricted to the limits thus fixed.

3. It now appears that the claims to land on the east of the estate are less indefinite than the Board supposed.

4. The "Note to the Agreement" (dated in the Malayalam September 1845 and in the English translate, apparently by mistake, December 1845), which forms a part of the Title-deeds with the Map appended to it, have supplied the Commissioner with the means of fixing a boundary marked DDDD in the sketch Map A submitted with his letter. Mr. Ouchterlony claims a boundary farther to the west on the ground of acts of ownership and the admissions of a Collector, but the reasons shown for fixing on the line DDDD are satisfactory.

5. Mr. Breeks proposes to extend the boundary at one place (D, E, B, KK, D) so as to include a bungalow and private road belonging to Mr. Ouchterlony. and under all the circumstances of the case, considering the fact that Mr. Ouchterlony was persuaded that the whole of the land belonged to the Tirupad by Mr. Conolly, and that his ownership of the site of the bungalow and the private road has long been recognized, the Board think this may be allowed.

6. If Mr. Ouchterlony will consent to this boundary all claims on behalf of Government to lands within the limits of the estate may be waived. From the Title-deeds it appears that the purchase-money given for the estate was Rupees 1,500, and that the lessee pays the Rajah annually Rupees 20 as "jenma bhogam." These terms are lighter than those allowed to purchasers of Government land, but it is not necessary on that account to resort to litigation.

No. 88C. ORDER THEREON, 9th August 1872, No. 1,188-A.

Miscellaneous.

IN their Proceedings of 30th March 1865, No. 701, Revenue Department, the Government directed that all titles derived "*bona fide*" from the Nelamboor Tirupad prior to the above date for land situated in that tract adjoining the Nilgiris, his claim to which, as part of the

Nambalacotta Estate, had been successfully contested by Government, should be respected.

2. The question to be settled on the present reference is what boundary towards the Nilgiris shall be admitted as the eastern limit to such claims. The claims advanced by Captain Godfrey and Mr. Ouchterlony on titles which, the Government do not for a moment doubt, were obtained "*bona fide*," conflict between themselves, but so far as Government are concerned the abovementioned seems the only point calling for settlement.

3. Mr. Ouchterlony's Title-deeds and annexed plans are before Government. Captain Godfrey's documents have not been produced to them, but the sketch, forwarded by the Collector of Malabar with the letter embodied in Board's Proceedings of 18th March last, shows the extent of his claim. From this sketch it would appear that the most eastern limit of his claim extends beyond that of Mr. Ouchterlony, but on comparing the sketch with the Nilgiri District Map of 1871, compiled by the Survey Department from former surveys, and with the plans attached to Mr. Ouchterlony's deeds, the Government are disposed to think that the "Yella Mullay," shown in the sketch as Captain Godfrey's most eastern point, is identical with the "Nilgiri Peak, *alias* Yella Mullay, *alias* Mookooritchi Mullay," which is the extreme southern point of Mr. Ouchterlony's claim towards the Nilgiris.

4. As regards Mr. Ouchterlony's claim the Government are fully satisfied, from inspection of his deeds and annexed plans, and from consideration of the former papers and those now submitted, that the line DDD from Nilgiri Peak to the Gudalur hill, indicated in the sketch Map A, signed by Captain Sargeaunt of the Revenue Survey, and forwarded by the late Commissioner of the Nilgiris, constitutes the eastern boundary originally contemplated.

5. There is also no question but that whatever Captain Godfrey's claim may be, he has occupied no land east of this line, and the Government therefore resolve to recognize it as the extreme eastern limit to which they will admit any claims based on titles derived from the Tirupad.

6. They direct that steps be taken, after the monsoon, by the Superintendent of Revenue Survey, in communication with the Commissioner of the Nilgiris, to cause this line to be accurately laid out and permanently marked on the ground and plotted in a plan on a large scale so as to preclude all future misunderstanding.

7. In passing this decision it is to be clearly understood that the Government have decided nothing as to the rival claims of Messrs. Ouchterlony and Godfrey, but have merely determined the most eastern boundary up to which they will recognize *any* claims derived from the Tirupad.

8. Captain Godfrey's claim does not touch the northern section of the line above adopted, but it was pointed out by the late Commissioner of the Nilgiris that it may possibly exclude Mr. Ouchterlony's bungalow at Nediwattam, and would certainly exclude part of the road formed by him from the new Government road to this bungalow, and so on to his Coffee estates, and Mr. Breeks proposed a deviation so as to include these points in Mr. Ouchterlony's estate.

9. The Government see no necessity for this additional concession which, so far as can be judged from the sketch Map A, would have the effect of adding

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another square mile to the total area of some forty-five square miles which the Government cede to the Tirupad's grantees. Should Mr. Ouchterlony's bungalow be found, on accurate survey, to fall without the line adopted by Government, they will allow it, and its grounds to be included in his estate; but regarding this spot as well as any land occupied on titles derived from Mr. Ouchterlony, which may be found to fall without the line, the Government desire to receive a report from the Commissioner after the survey has been completed.

10. Referring to paragraph 6 of the Board's Proceedings of 18th April, the Government observe that there can be no question of Mr. Ouchterlony's consenting to the boundary they have adopted, seeing that failing recognition by Government Mr. Ouchterlony has no valid title to his extensive and valuable estate.

11. The Board's remarks as to the consideration money paid to the Rajah and the "Jenma bhogam" apply only to the first grant, dated 1845, obtained by Mr. Ouchterlony. The larger and most westerly portion of the estate was obtained in 1857 on a grant conditioning for payment of Rs. 2,000 yearly as "Jenma bhogam." The Government desire to know whether Mr. Ouchterlony and Captain Godfrey have paid to Government, since 1865, the amounts stipulated for by the Tirupads.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.
,, the Superintendent of Revenue Survey.
,, the Commissioner of the Nilgiris.

A

A

Wills 80 of Aug 1872
No 1186 A

R 1489/72
Prog dated 9/8/72 Ll 8 ya

Judl Dept No 1634/72

A

SKETCH MAP

Shewing proposed Eastern Boundary

FOR

Mr Ouchterlony's Property



Revenue Survey Office
Ootacamund
27 th March 1872.

Captain

Assistant Superintendent Revenue Survey.

Calicut 2? June 1845.

17

My dear Sir

The land you refer to near the Goodalore pass is private property and you could no doubt obtain what you require on favourable terms and good tenure. The government as yet have no duty on lands in Malabar on which Coffee is grown (they only levy a duty on rice fields and fruit trees). Whether or no they will continue an exemption which of course gives peculiar advantages to the Malabar settler, I cannot say, but so far as my opinion is concerned (and I have given this officially) I think they will do well to be satisfied with the export duty at all events

till

wrong in using so strong a term, but I think not with my experience of the wish of Government to deal liberally and justly with all. Perhaps after what I have said you may consider your public letter unnecessary.

Yrs. very truly

Sigd R. V. Crowley.

Calvert Septr. 27. 1845.

My dear Sir,

I hope you will not deem me uncourteous, however much you may think me over precise, when I ask you in reply to your letter received yesterday that I consider it would be out of place

(with

with the waste lands of Wynaad (and I may add the Koondahs) are in a better state to bear taxation than they are now. You see your prospects are better than you anticipated. You may get your land in the first place on simpler and easier terms from a private proprietor than you could from Government, and tho' you are liable to the distant contingency of a Government tax being superadded it may be apparent that it will not be so heavy as to place you in a worse position than your neighbour in Coimbatore. You may be "spared", I may be wrong

(with reference to my official position) was to make the final arrangements upon with the Zeropad regarding his land at Neddawattum.

The preliminary arrangements I have made with pleasure and without deeming myself to be in any way exceeding my province. Without in fact some such interference on my part it is probable that a person so ignorant as the Zeropad would blindly declined all offers however advantageous and thus prevented a work which I consider beneficial to the district. But having done all that

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is necessary to smooth the way I think any further step on my part might lead to misapprehension and at all events would form an inconvenient precedent. I will inform the Zeropad that you are willing to take up a considerable portion of land on the terms proposed by him, and desire him to send up an Agent to join yours and settle all details whenever your man is ready to meet him. I would warn you that the natives of the Court have a horror of the sea, and that it will be desirable not to send for the Zeropad's Agent till yours is on the spot.

J.

I wish recommend the Serpad to have his in readiness for your Summons which you may either send direct or thro' me as you please.

Yr. truly

(Signed) H. V. Conolly

Kalicut June 10. 1845.

My dear Sir,

The owner of the land near the Gordalore Ghat is the Nellumboor Serpad or Raja. I spoke to him some time ago on the subject of letting or selling in that locality, and he expressed himself willing to agree to any terms I might consider fair. If you like it I will convey to him any propositions you may wish. But to save misconceptions I wish to take this early opportunity of mentioning with all frankness that I should be unwilling to give my assistance to the acquirement of more land than is bona-fide intended to be cultivated by yourself. My views are simply for the public benefit and I should regret to see land forestalled any where in my district in the way it has been in Ceylon. You will therefore take offence at an observation

: tion which is by no means
made to you particularly.
I made the same to a gen:
tleman a few days ago
situated in Wynaad.

Yrs: very Sincy
Rich[d] H. V. Conolly

Cabinet Octr
21st 1845.

My dear Sir,

I send a draft of
an agreement between
yourself and the Perspad.
You can modify it as you please.
The English is an exact trans:
: lation of the Malayalim. I
think it would not be adv:
: visable

: visable to make any diffi:
: culty about a few rupees but
you can resolve on what you
deem judicious after you have
seen the Perspad's Agent and
the ground with him. Ten:
: close stampt papers on which
your Kirar (when finally
arranged) should be written.
: They are for the agree:
: ment not exceeding 2 sheets.
: Each sheet must
: per. If more sheets must
get them changed, for proper
Stamps. The price of the
four, 1½ you can pay at
any time. Dimensions for
us are written in pencil
on their heads. I have
written to the Perspad to
recommend

recommend him to wait
you when his Agent will be
ready.

Yrs: Sincy

(Sigd) H. V. Conolly

Lahore 4. Decr 1845.

My dear Sir,

There being no more
than 600 Rupees at present
in the Ennad Talook Trea-
: sury I have directed the
amount Rs 1500 of the Bill
received with your letter of
the 1st instant, to be paid
to Vurtharajah as soon as
the collections will admit

of

27

of it being done, and which
it is expected will be in 15 or
20 days hence. I have in-
: formed the Peroopaul of the
Soleguram of my not giving
the money at once and doubt
not he will be satisfied.

Yrs: very truly

(Sigd) H. V. Conolly

To J. Puckle Lony Esqr
Asst Commd

Copies

Five demi-Offi-
cial letters from the
Comptroller to the Auch-
itor-General referred
to in para: 4 of
Commissioner's letter
dated 4th September
1872. No. 42.

E.B.

Looked with the
papers in the Secr.
Office.

E.B.

Memorandum No 401

The under signed re-
quests that the Deputy Registrar,
Revenue Secretariat, will be good
enough to return per bearer, the plan
and the two other enclosures, which
were forwarded to Government co
with Board's Proceedings dated
18th March 1872 No 464, recorded in
G-D- dated 9th August 1872 No 1188 P

Revenue Board's Office
22nd July 1875

To The Deputy Registrar
Revenue Secretariat
Government Office

Registrar

1st Plan & 2 other enclosures
sent to Board. 23/7/75.

List of Correspondence referred to in the Collector's letter to the Board of Revenue dy 1st March 1872 No. 56.

1 Extract from the Minutes of Consultation in the Rev Dept dy 3d January 1856 No 2.

2 Extract from the Minutes of Consultation dy 19th February 1856. No 19

3 Extract from the Minutes of Consultation dy 27th August No 1527 O.P.R.

4 Extract from the Minutes of Consultation dy 29th September 1856. No 1754 P. R. D.

5 Extract from the Minutes of Consultation dy 11th March 1857 No 245 Rev Dept

6 Letter from the Acting Collector of Malabar to the Secretary to the Board of Rev dy 6th April 1857 No 38.

7 Board's Proceedings dy 13th May 1857 No 1560.

8 Extracts from the Minutes of Consultation dy 11th August 1857

9 Board's Proceedings dy 23d September 1857 No. 3180.

10 Letter from the Ag Collector of Malabar to the Ag Secretary to the Board of Revenue dy 9th November 1857 No. 173.

11 Extract from a letter from the Acting Collector of Malabar to the Secretary to the Board of Revenue dy 4th June 1858 No. 904.

12 Board's Proceedings dy 2d October 1858 No. 3686.

13 G. O. dy 22d June 1859 No. 822 two Cs

14 G. O. dy 12th July 1859 No. 925.

15 Board's Proceedings dy 21st November 1859 No. 4757.

16 G. O. dy 16th March 1860 No. 396.

17 Notification of the Madras Government dy 16th March 1860.

18 G. O. dy 29th March 1860 No. 484.

23 Board's Proceedings dy 9th Nov[illegible] No. 2977.

24 G. O. dy 11th November 1862 No. 2[illegible]

25 G. O. dy 7th January 1863 No. 22.

26 G. O. dy 10th January 1863 No. 59.

27 G. O dy 30th March 1865 No. 701.

28 G. O dy 13th October 1865 No. 2[illegible]

29 G. O dy 7th November 1867 No. 2[illegible]

30 Board's Proceedings dy 13th Nove[illegible] 1867 No. 7402.

31 G. O. dy 29th November 1867 No. 2[illegible]

32 Board's Proceedings dy 2d Dece[illegible] 1867 No. 7807.

33 G. O. dy 23d January 1868 No. [illegible]

34 Board's Proceedings dy 2d April 1868 No. 2434.

35 Board's Proceedings dy 2d May 186[illegible]

36 G. O. dy 22d April 1869 No. 1097.

37 Board's Proceedings dy 5th May 1[illegible]

38 Board's Proceedings dy 11th May 1869.

39 G. O. dy 5th June 1869 No. 160[illegible]

40 Board's Proceedings dy 10th [illegible]

by Defendants in Suit brought
by Nellamboor Rajah against
Government.

43 Board's Proceedings dated 22d June 1869
No. 4,502.

44 Board's Proceedings dated 2d July
1869 No. 4,762.

45 Board's Proceedings dated 23d July
1869 No. 5,358.

46 Board's Proceedings dated 10th September
1869 No. 6,829.

47 G. O. dated 21st September 1869 No. 2,625.

47A Memorandum from the Collector of
Coimbatore dated 29th August 1864.

48 Letter from the Deputy Collector
of Dynad to the Collector of
Malabar dated 27th March 1863 No. 37.

49 Extract from Mr. S. Sullivan's
report to Government dated 29th
January 1861.

50 Letter from the Principal Collector
of Malabar to the Principal
Collector of Coimbatore dated 15th Janu-
-ary 1830.

51 Do. Do. dated 12th July 1829.

52 Board's Proceedings of 22d September
1869 No. 7205.

53 Do. Do. dated 28th September 1869 No. 7206.

54 Board's Proceedings dated 30th September
1869 No. 7291.

55 Do. dated 15th October 1869 No. 7,697.

56 Letter from the Acting Secretary to
the Board of Revenue to the Acting
Secretary to Government Revl. Dept.
dated 15th October 1869 No. 7,740.

57 G. O. dated 20th October 1869 No. 2,917.

58 Board's Proceedings of the 15th
October 1869.

59 Board's Proceedings dated 5th November 1869
No. 8,206.

60 Do. Do. dated 18th November 1869 No. 8,531.

61 Do. dated 22d November 1869 No. 8,604.

62 Do. dated 10th December 1869 No. 9,073.

63 Do. dated 15th December 1869 No. 9,197.

64 Do. dated 18th December 1869 No. 9,305.

65 Do. dated 28th January 1870 No. 660.

66 Do. dated 17th February 1870 No. 1,093.

67 Do. dated 3d March 1870 No. 1,524.

68 Do. dated 5th March 1870 No. 1,562.

69 Do. dated 11th March 1870 No. 1,682.

70 Do. dated 14th March 1870 No. 1,760.

71 Do. dated 11th April 1870 No. 2,450.

72 Do. dated 29th April 1870 No. 2,868.

73 G. O. dated 5th May 1870 No. 644

74 Board's Proceedings dated 23d May 1870
No. 3,556.

75. Board's Proceedings of 14th June 1870
No. 4,144.
76 G. O. of 27th July 1870. No. 1122.
77 G. O. of 12th August 1870. No. 1160A.
78 Board's Proceedings of 20th October
1870 No. 6246.
79 G. O. of 25th October 1870. No. 1447.

Malbar Collector's
Office
Calicut —
2nd March 1872.

Sd/ A Maegregor
Collector.

In a letter from
the Collector of
Malabar to the
Secretary to the
Board of Revenue
dated 1st March
1872 No. 56.

Rec'd 1018 of 1872.

GO-9 Aug. 72
No 1188

List of Correspondence
referred to in the
Collector's letter
to the Board

idea that all waste land thereto belonged to the government, & I accordingly applied for a grant to the Collector of Chalatan, the late Mr Conolly. In reply I was directed to the Settlement Officer of Chalatan as the Inspector of the District was questioned. Mr Conolly introduced me to the Raja; but said that as Collector he could not interfere further, and I must make my own terms. This I did; and the Collector then assisted me in having deeds drawn up according to the usages of the country, and he was good enough to give the accommodation of a Treasury draft for the payment of the purchase money. I may say that with the Settlement Officer I subsequently made with the entire cognizance of the Collector of Chalatan, and his implied approval of the boundaries named in the deeds such as the Raja had power to assign. This was his first act of exploit dated upon by mid-

Yours

Porter

good faith for non-appearance of Mr Conolly's original letters on which my representations to Government were founded. I will produce them to you if desired.

3 The question to be determined by the boundary line above the Chalatan (or to speak) depends upon the construction of the expression in the title deeds "the left bank of the Chalatan river" at the date of the deeds, 1845, the country about Chalatan was certainly a wilderness and the road was not yet formed. But it is to be remembered that the Collector of Chalatan then in district in his district all the country up to the Cypress river was under his jurisdiction. The Settlement Officer was under the same observation. The Collector also was that my deeds should be submitted to the Board of Revenue for their approval and no objection was made when we entered

bricks on the hill starting the
road preparatory to building
thereon.

4. In the latter part of the
Thomas Collectorate of Customs,
question arose connected with
drawing a supply of fresh water
for ascertaining from States to
Buddhist attire, and upon which
I had to communicate with
Government. I regret I have
not the date, but this correspon-
dence will be found in the
Government records. The Head
Inspector was acting for
Inspector of Prisons at the time.
The state of the matter was,
that after my representation no
further attempt to interference
took place.

5. In the beginning of 1866
Mr. Elmes wanted to take some
land from me, and in the last
instance from Mr. Grant the
Collector that the land I point to
the Lodge Gates of the Government
Cinchona Plantation belongs to
me: and Mr. Grant writes
me on the same reference as
stating

regarding some forest lands on
the road to Ootacamund.

6. I do not remember the
exact date, but it may have been
the latter part of 1866 or beginning
of 1867 that the same Collector
first spoke to me of the forem-
ment having directed him
to report upon my
boundaries with a view to a
final understanding about
them. Mr Grant distinctly
told me then that he thought
the most reasonable interpretation
of the Boundaries and,
the "water shed" further than
the water shed, was about the same
time at Buddhisattwa, we
went over that part of the coun-
try together and he observed
that he wished to have the
Jewellers' Dam
Hill House for public purposes; but
said he would leave all the rest up
to the road to be used upon
both sides. I have been told the water fall
is mine, but in conformity
with
it

with these views, I drew a line
along the watershed above my
valley on the Revenue Survey
map, and handed this in to
the Collector. I regarded this
principle of the adjustment
of the boundary as settled, and
I submit that I had reason
to think so, for, for fully a year
after, I had no intimation
whatever of any dissent or that
I had interpreted the Collector
incorrectly.

7. But in March 1868 I received a letter to continue
tion from the Collector, taking
an entirely new view, and cutting
me off from the greater part of
the watershed. Mr. Grant was
then just leaving his station,
and, as I had been anxious
all along to have the matter
settled, and wished it to be
completed by him and not have
the work gone all over again
with his successor, I hastened
to make certain concessions to
facilitate a final adjustment

his early departure however
prevented my getting any reply
to this last proposal.

8. I think it can hardly be
questioned that the watershed
is only the fair reasonable in-
terpretation of the terms of the
covenants, and has ever been
accepted by the country in respect
of boundaries. I have therefore
shown that the deed with this
term construed by the Commissioner
of the Collector, and that this
was the first view of its meaning was
the first idea of difficulties
about lately, right out of
one land sold a few years
ago to Mr Grimes. About neither
of these however could there
be any difficulty, I mean practi-
cally, as I would suppose to
respect the cut (appeal to
by our ~~the~~ arbitration any dis-
puted claim that might arise
but to confirm the other. But
to repeat what I stated with respect to the
Collector

Collector, I would be content
to take that portion of the water
shed, which intraces the two
ravines (in each a portion of
continuation of the valley forest)
which are respectively known
at the head of the Forest
Estate, and at the head of the
Hope Estate - abandoning all
that is beyond the latter.
I have the honor to be
Sir,
Your most obedient
Servant
Conductor
London
Nov 17-1871

Revenue Survey Office
Ootacamund.
26.6.72

43

Lieutenant W. Huddleston
Herewith the map
the area included in the
Ootacamund boundary taking
D.D.D. is about 44 Sq
miles -
Yours truly
Chas Sargent

Revenue Dept.

No 1188 A

Pros of the Madras Govt

Under date the 9th August 1872

Read the following

Pro: of the Board of Revenue

Submitting correspondence relative to claims of Mr. Ouchterlony & Capt. Godfrey to certain lands.	R. E. 18 March 1872, No 464.
Submitting letter from Commr. of Nilgiris regarding boundary of Mr. Ouchterlony's land.	R. E. 18 April 1872, No 622.

In their Proceedings of 30th March 1865 No 701 Rev: Dept, the Govt directed that all titles derived bona fide from the Nilamboor Tirupad prior to the above date, for land situated in that tract adjoining the Nilgiris

Pro

his claim to which as part of the Nambalacotta Estate had been successfully contested by Govt. should be respected.

The question to be settled on the present reference is what boundary towards the Nilgiris shall be admitted as the eastern limit to such claims. The claims advanced by Capt. Godfrey and Mr. Cuchterlony on titles which the Govt. do not for a moment doubt were obtained "bona fide" conflict ~~most seriously~~ between themselves, but so far as Govt. are concerned

concerned the above mentioned seems the only point calling for settlement.

Mr. Cuchterlony's title deeds and annexed plans are before Govt. Capt. Godfrey's documents have not been produced to them, but the sketch forwarded by the Collector of Malabar with the letter embodied in Board's Proceedings of 18th March last, shows the extent of his claim. From this sketch it would appear that the most eastern limit of his claim extends

beyond

beyond that of Mr Buchanan-
-lony, but on comparing
the sketch with the Nilgiri
District Map of 1871 compiled
by the Survey Dept: from former
surveys, and with the plans
attached to Mr Buchanlony's
deeds, the Govt are disposed
to think that the "Gylla mullay"
shown on the sketch as Capt.
Godfrey's most eastern point
is identical with the "Nilgiri
peak - alias Gylla mullay,
alias Mookoorichi mullay"
which is the extreme southern
point of Mr Buchanlony's claim
towards the Nilgiris.

As regards Mr Buchan-
-lony's claim the Govt are fully
satisfied from inspection of his
deeds & annexed plans & from
consideration of the former papers
and those now submitted, that
the line D. D. D. from Nilgiri peak
to the Gudalur hill indicated in the
sketch map A signed by
Captain Sargeaunt of the
Revenue Survey and forwarded
by the late Commissioner
of the Nilgiris, constitutes the
Eastern boundary originally
contemplated

There is also no
question but that whatever
Captain Godfrey's claim
may be, he has occupied
no land East of this line,
and the Govt therefore resolve
to recognise it as the
extreme Eastern limit to
which they will admit any
claims based on titles
derived from the Sirkpad-

They direct that
steps be taken after the
monsoon by the Supt of
Revenue Survey, in commu-
-nication with the Commis-
-sioner of the Nilgiris, to
cause this line to be
accurately laid out
and permanently marked
on

The Govt. see no necessity for this additional concession which, so far as can be judged from the sketch map A, would have the effect of adding another square mile to the total area of some 45 square miles which the Govt. cede to the Tirupati grantees. Should Mr. Ochterlony's bungalow be found, on accurate survey, to fall without the line adopted by Govt., they will allow it and its grounds to be included in his Estate, but regarding this spot as well as any land occupied or titles derived from Mr. Ochterlony which may be found to fall without the line the Govt. desire to receive a report from the Commissioner after the

survey has been completed.

Referring to para 6 of the Board's Proceedings of 18th April, the Govt observe that there can be no question of Mr. Ochterlony's consenting to the boundary they have adopted, seeing that failing recognition by Govt., Mr. Ochterlony has no valid title to his extensive and valuable Estate.

The Board's remarks as to the consideration money paid to the Rajah and the "jenma bhogum" apply only to the first grant, dated 1845 obtained by Mr. Ochterlony. The larger and most westerly portion

portion of the Estate was
obtained in 1857 on a
grant conditioning for
payment of Rs 2000 a
yearly as "jemma thoqum".
The Govt desire to know
whether Mr Ochterlony
and Captain [illegible] have paid to Govt since
1865 the amounts stipulated
for by the Zimindars.

14 To the Board of Revenue Dec: 21st August/72.
13 " Supdt of Revenue Survey " "
3 " Commissioner of the Nilgiris " "

Ouchterlony and Godfrey's claim

Respn

55

Rev. 1872. Depart

Board of Revenue,

MADRAS.

P. 1018.

PROCEEDINGS, 18TH MARCH 1872, No. 464.

Dup. 22 March/72

Encl. 3

Received 23d.

MARCH.

No. 464.

Ouchterlony and Godfrey, Messrs.—Correspondence relative to claims of, to certain lands, submitted for orders of Government.

Read. G. A. Turton.

S.O. No 1188 A.—7th Aug./72

1872. Dept.

Board of Revenue,

MADRAS.

No. 1487

PROCEEDINGS, 18TH APRIL 1872, No. 622.

Dup. 26 Apl 72

Encl. 4

Received 27

APRIL.

No. 622.

Boundary of Mr. Ouchterlony's land.—Letter from Commissioner of Nilgiris regarding—, submitted to Government.

S.O. No. 488 A— 9th August 72