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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

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1871

Proceedings of the Madras Government, Judicial Department.
15th July 1873.

Read again Proceedings of Government, dated 23rd May 1871.

Read also the following papers :—

No. 72. From H. WIGRAM, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, to the Hon. W. HUDLESTON, Acting Chief Secretary to Government, Fort St. George, dated Madras, 16th June 1871, No. 1060.

I am directed to acknowledge the receipt of your letter to the Chief Justice forwarding copy of the Proceedings of Government, Judicial Department, dated 23rd May 1871, No. 689, and requesting the opinion of the High Court as to the expediency of the proposals made in paragraphs 5, &c., so far as they affect the existing judicial arrangements in the Wynaad.

2. In reply, I am instructed to state that the Court are not in a position, from want of information as to the number of native inhabitants in the portion of South-East Wynaad proposed to be attached to the Neilgherry Commissionership, and as to the number of suits instituted by or against them which are now pending, to give any decided opinion as to the expediency of the change suggested. But as far as they can judge, provided that suitable arrangements are made for holding periodical courts at Goodaloor, no real hardship is, in the opinion of a majority of the Court, likely to result.

3. The abolition of the jurisdiction of the Small Cause Court at Tellicherry over the Wynaad appears to the High Court to be a beneficial measure, and a proper remedy for the abuses complained of. Duly-qualified officers at Manantoddy and Vythery, exercising the ordinary powers of a District Munsif and the full powers of a Magistrate, should suffice for the present wants of the inhabitants of the Wynaad. From the periodical returns submitted to the High Court it appears that, during the last three years, the number of suits disposed of by the District Munsifs of Manantoddy, Vythery, and Goodaloor, was as follows :—

	Ordinary suits.	Small Causes.	Total.
1868	135	154	289
1869	110	174	284
1870	115	168	283

4. To these must be added the small causes between 50 and 500 Rupees which will now have to be tried as ordinary suits by the District Munsifs, but even then the files will be comparatively light.

No. 73. From J. W. BREEKS, Esq., Commissioner of the Neilgherry Hills, and A. MACGREGOR, Esq., Collector of Malabar, to the Hon. R. S. ELLIS, c.b., Chief Secretary to Government, Fort St. George, dated Ootacamund, 16th February 1872, No. 8.

As directed by G. O., 23rd May 1871, No. 689, we have the honour to submit our opinion on the question of the future boundary of the Neilgherry and Malabar Districts.

2. In paragraph 8 of the Order alluded to, Government, after dismissing the proposal made for including within the Neilgherries an extensive tract of Wynaad, propose, as an experimental measure, "to extend the limits of the Commissionership

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to the road which runs from Tippacadoo to the top of the Carcoor Pass, including some estates at Goodaloor and the whole of what is called the Ouchterlony Valley."

3. In referring the question for report, however, it is left open to us to suggest another boundary line.

4. So far as the Ouchterlony Valley is concerned we are of opinion that the measure is most desirable. The valley is almost cut off from Malabar, and it is impossible to arrange for its being sufficiently visited by the superior officers of the district. The property there is either Government waste, or else in the possession and occupancy of European planters and capitalists, the majority of whom desire the change. The native inhabitants of this tract are without exception settlers who have resorted there for employment in the coffee estates. Such magisterial work as would be involved by the change would easily be performed by the Assistant Commissioner on the spot.

5. In regard to the town of Goodaloor, however, the case is different. It contains 124 houses owned by merchants and petty traders of all races, many of them entirely unconnected with coffee planting. The feeling against the transfer among this class is very strong, and it would be out of the question to oblige them to resort to Ootacamund for redress. Hence the necessity for the arrangement contemplated by Government of the Commissioner and Assistant Commissioner holding court at Goodaloor. The work connected with the town alone would be insufficient to warrant the maintenance of a Sub-Magistrate, but it would be very much more than could be imposed on the Commission, and the work, moreover, at such a place is of a character that can scarcely be adequately provided for by periodical sittings, the locality being feverish, and many of the most important cases connected with travellers or goods in transit.

6. The transfer of Goodaloor too, would it is conceived lead to difficulty in administering the adjoining country as part of the Malabar District. There is no othersuitable bazaar or position for a Sub-Magistrate's Court or Police Station in this part of Wynaad. If the Goodaloor Sub-Magistracy were abolished and those portions of South-East Wynaad left in Malabar transferred to the Magisterial charge of a Deputy Magistrate at Vythery, there would be a distance in some cases of fifty-five miles intervening between the scene of crime and the Court of first instance. Other objections exist, as, for example, the fixing of a boundary line close to a town and along a much frequented road. On the whole we are of opinion that the line should be drawn so as to leave Goodaloor in Malabar and transfer only the Ouchterlony Valley, and we annex a map in which is indicated the line which is, in our opinion, the most suitable for this purpose. From A to B it is well-known in the neighbourhood as Richardson's Line. It was demarcated by that gentleman when Deputy Collector, and has been regularly surveyed by Major Hessey. It was maintained by Government in the late suit as the extreme southern limit, north of which were contained all the various parcels of land, the estate of the late Nambalacode Varnavar which were sold by a decree of Court to the Nellambur Rajah, and the purchase of which formed the main title on which the Rajah of Nellambur claimed the Pykara and Neddiwattum Chinchona Estates. The suit was determined in accordance with this line so far as it extended to the land then under litigation. The Varnavar was the border chief and the Munsif's sale included all his property, and

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it may, therefore, be considered as a point established that no Malabar Jenmy title exists or ever existed beyond this line.

7. The western point of the line is a rock named Arata Para, and from this we would recommend that the line should follow a small stream to the big river, the river to the crest of the ghauts, and thence turn eastward along the crest of the ghauts to Neilgherry Peak, transferring estates as per annexed list.

8. In explanation of the fact of our recommending a line having no connexion with what is called the Ouchterlony Estate it may be remarked that the alleged boundaries, challenged we believe on all sides, are peculiarly unsuited on the north-west side to form the boundary of two districts, consisting as they do of imaginary lines crossing and recrossing mountain crests, ridges, and rivers.

9. The actual point of intersection of the two principal lines, as defined in a title deed produced before the Survey Department, one to be drawn east and west, the other north and south, has never yet been determined, and would fall, we are informed, not in Wynaad but below ghauts, somewhere in the Ernad Taluq, in the close vicinity of the Government and other teak forests.

10. In preference to this we have recommended a line which from the configuration of the country adapts itself to the practical requirements of administrative convenience.

Referred to the Board of Revenue for their opinion.

FORT ST. GEORGE,
8th March 1872.

(Signed) H. E. STOKES,
Under Secy. to Govt.

No. 74. Proceedings of the Board of Revenue, dated 11th April 1872, No. 582.

Read endorsement of Government, dated 8th March 1872, on joint report of Mr. J. W. BREEKS, Commissioner of the Neilgherry Hills, and Mr. A. MACGREGOR, Collector of Malabar, dated 16th February 1872, addressed to the Chief Secretary to Government.

ABSTRACT.—Referring to the Board, for opinion, letter from the Commissioner of the Neilgherry Hills, and the Collector of Malabar, submitting joint report regarding annexation of the Ouchterlony village to the Neilgherry District.

In 1869 the planters of South-East Wynaad petitioned Government to attach their district to the Neilgherries on the ground that its planting interests were of great importance and the connexion between the plantations and Ootacamund very intimate.

2. Government considered that a portion of the tract of country might be included in the Commissionership, but that this would render it necessary for the Commissioner and his Assistant to hold their courts periodically at Goodaloor. In order that this necessity might not keep them absent from the Hills too long, the tract added to the Commissionership must be very limited, and it was suggested by Government that the boundary should be the road from Tippacadoo to the Carcoor ghaut.

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3. In the joint report by the Commissioner of the Neilgherries and the Collector of Malabar now before the Board it is conclusively shown that the proposed line would be very inconvenient. The peculiar circumstances of Goodaloor require that there should be a magisterial officer resident on the spot, but the tract of Wynaad attached to the Commissionership would be too small and unimportant to warrant the expense of maintaining a Sub-Magistrate there.

4. The Board think the line proposed by Messrs. Brecks and MacGregor is a better line than that suggested by Government, or than that which is now in force. It is convenient and well-defined.

5. It must be observed, however, that the concession which will be given to the planters who submitted the petition of the 1st November 1869, if this line is chosen and ratified, will be very small.

6. With regard to paragraph 13 of G. O., dated 23rd May 1871, the Board have to state that they know of no district from which a Deputy Collector can be spared for employment at Vythery.

(True Extract.)

(Signed). J. GROSE,
Secretary.

No. 75. From A. MACGREGOR, Esq., Collector of Malabar, to W. HUDLESTON, Esq., Secretary to Government, Revenue Department, dated Calicut, 5th July 1872, No. 36.

I have the honour to request the early orders of Government on the subject of the transfer of a portion of the Wynaad to the Neilgherry District, as, until this is decided, no definite proposals can be made as to the future location of the Deputy Magistrate of Wynaad.

2. In their Order of the 23rd May 1871, Government threw out the suggestion that an additional Deputy Magistrate or Assistant Magistrate might be appointed for Vythery, the present arrangement by which a Deputy Collector is stationed at Manantoddy being maintained.

3. At that time sanction had been accorded for the construction of a Cutcherry, for the Deputy Collector at Manantoddy, at a cost of Rupees 17,440. As, however, the erection of such a building would seriously have embarrassed the free discussion of the future location of officials, and would have necessarily hampered Government in disposing of the question, I requested Major Kennedy to hold the work in abeyance, which he has done.

4. I am of opinion, that, if the proposal made by the late Commissioner of the Neilgherries and myself is approved, the remainder of Wynaad can be satisfactorily administered by one Deputy Magistrate.

5. The complaints that have arisen regarding the distance to which it is necessary to go to the Deputy-Magistrate's Office, are, in my opinion, chiefly owing to the fact that his position at Manantoddy is anything but central. This is the case as regards the geographical position, as will be seen from the enclosed map, but in a far greater degree as regards the present distribution of the planting interest.

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6. Originally Manantoddy was decidedly the most important place in Wynaad. The main road from Cannanore to Mysore (the only cart road then in Wynaad) passed through it, and a Military Detachment was located there, and coffee planting was at first more largely developed in that neighbourhood than in any other. On the opening of the Parambady ghaut road, however, the through traffic was diverted, and the cart road gradually fell into decay and became impracticable, and in that state has remained for many years. Cart traffic has only lately been resumed. In the meantime the southern and eastern portions of Wynaad have been opened up by cart roads to Mysore and to the coast; and while the acreage of coffee in those parts has been largely increased, that in North Wynaad, especially in the neighbourhood of Manantoddy, has decreased.

7. This has been caused partly by bad seasons, and is partly due to the fact that estates in North Wynaad were principally in the hands of Bombay capitalists and speculators, and that the estates, therefore, suffered from the extensive failures in Bombay a few years back.

8. In the last three years the European planters in North Wynaad have fallen from sixty to twenty, while in South and South-East Wynaad there are now upwards of one hundred.

	Fasli 1277.	Fasli 1278.	Fasli 1279.	Fasli 1280.
N. Wynaad ...	11,379	9,846	9,348	9,259
S. Wynaad ...	8,501	8,979	9,427	9,980
S.-E. Wynaad...	7,730	8,311	8,253	8,546*

* Of these 2000 in the Oachterlony Valley may be left out of consideration.

9. The relative acreage of coffee in the various divisions during the last four faslis is as noted in the margin.

10. The South Wynaad districts of Teriote and Mupynad are those where the principal extensions may be expected.

11. As regards the total population of the three divisions of Wynaad, the figures as ascertained at the last census are as follow:—

North Wynaad ...	41,984
South do. ...	47,015
South-East Wynaad ...	37,347

12. Seeing that South Wynaad is the division where most coffee cultivation exists, and where it is increasing most rapidly, and that it occupies a position between the other two divisions, it seems to follow almost as a matter of course that if there is to be only one Deputy Magistrate, he should be stationed somewhere in South Wynaad, and the question resolves itself into the consideration of what spot is to be selected. The choice lies between Vythery, Kalpatty and some point in the open country between Kalpatty and Sultan's Battery. The last-named place is the most central and would be, I consider, the healthiest locality, but there is the drawback attaching to any attempt to establish a settlement where none exists, and it would be necessary to build, which in an experimental move is to be deprecated.

13. Kalpatty holds a bad pre-eminence in its reputation for unhealthiness both for Europeans and Natives. I would, therefore, recommend that in the first place Vythery be tried, and if it should be found not to answer, owing to unsuitable climate, then the site between Kalpatty and Sultan's Battery be tried.

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14. Vythery is one of the most rising places in Wynaad. There are already several Government buildings including a Sub-Magistrate's Cutcherry with Subjailor's Jail erected at a cost of 17,000 Rupees, also a Post Office, substantial dwelling houses for the Sub-Magistrate, Inspector of Police, and Head Constable. There is a large bazaar and several shops, butcher, baker, &c. A hospital is in course of erection, and there is a Doctor established there in private practice. There is a travellers' bungalow, but an enterprising American who owns land in the neighborhood, and keeps an extensive store, is about to start an hotel.

15. The following table shows the relative distances from Vythery and from Manantoddy to the principal planting centres:—

	Manantoddy.	Vythery.
North Wynaad—		
Peria	20	50
Manantoddy	0	30
Tirunhally and Coorg frontier	15	45
Korote and North-West Wynaad	12	24
South Wynaad—		
Teriote	15	15
Kalpatty	20	10
Vythery and Lackadie	30	0
South-East Wynaad—		
Mupynad	30	15
Cherambady	45	30
Devalla	55	40
Nellialom	50	45
Goodaloor	55	55

16. The following places, therefore, are those that would be brought nearer by the change:—

Kalpatty	10 miles nearer.
Vythery and Lackadie	30 do.
Mupynad	15 do.
Cherambady	15 do.
Devalla	15 do.

while those where the distances would be prolonged are as follow:—

Peria	30 miles longer.
Manantoddy	30 do.
Tirunhally and Coorg frontier	30 do.
Korote and North-West Wynaad	12 do.

17. There can be no question whatever that the importance of the district in the former list far outweighs that of those in the latter, and the change would go far to meet the views of the parties who submitted the petition of 1st November 1859.

18. I do not advocate the abolition of the Sub-Magistrate of Vythery, as such a measure would cast too much restraint on the movements of the Deputy Collector who could not do justice to such a wide charge as Wynaad, were he tied down to the requirements of a criminal court of first instance for petty cases. Besides, the Sub-Magistrates are now employed as Deputy Tahsildars.

19. The present arrangement for civil justice is that the Deputy Collector exercises the functions of a Munsif in North Wynaad, the Sub-Magistrate

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Vythery and Goodaloor, the same functions in South and South-East Wynaad respectively, the Small Cause Court Judge of Tellicherry holding an annual court at Manantoddy for two months, for the whole of Wynaad. The Government have already had before them the unsatisfactory results of such a temporary sitting for summary suits, by an officer without local knowledge, and if I may be allowed to express an opinion I should say that it would be far better to invest the Deputy Magistrate with the summary cognizance of Small Cause suits which his intimate knowledge of the taluq and people would help him to dispose of satisfactorily, than to give him and the Sub-Magistrates power as now to decide suits involving large sums of money and titles to land, for the decision of which their previous training has given them no special qualification. If the Deputy Magistrate were invested with the powers of a Small Cause Court Judge, it might be a question whether he should hold a quarterly sitting alternately at Manantoddy and Goodaloor or Devala. Such an addition to his work would call for some increase to his salary.

20. It would seem advisable that, for the decision of land suits and suits for sums exceeding those cognizable by Small Cause Courts, the nearest Munsifs' Courts at the foot of the nearest ghaut should be resorted to. This would divide the work among four Courts attached to two different Zillahs, and the increase to their fees would be scarcely appreciable.

21. This matter, however, is beyond my province, and scarcely affects the question of the transfer now proposed, as, if the Deputy Magistrate were removed to Vythery the civil business of North Wynaad could be taken by the Tahsildar, who is stationed at Manantoddy.

22. If Government approve of the transfer, it can be carried out at once, as the Deputy Collector will have no difficulty in renting a house at Vythery; and until it is decided whether the move shall be permanent, he can be allowed to furnish temporary accommodation for his office as heretofore.

No. 76. ORDER THEREON, 15th July 1873, No. 1097.

The Governor in Council approves the proposal to transfer to the jurisdiction of the Commissioner for the Neilgherry Hills the tract known as the Ouchterlony Valley within the boundaries settled by Messrs. MacGregor and Brecks, viz., the demarcated line known as "Richardson's Line" from the Pykara River to the rock known as the Arata Para, and thence following the stream running into the Karkoor River, and the river itself to the crest of the ghaut, and so along the crest of the ghaut to the Neilgherries Peak. Under Section 1, Act I. of 1868, Madras, he resolves to direct that the tract so defined be included in the jurisdiction of the Commissioner of the Neilgherries with effect from 1st September 1873.

2. The other points raised in the Proceedings of 23rd May 1871 were as to the advisability of withdrawing the Wynaad from the jurisdiction of the Small Cause Court at Tellicherry, leaving the suits above Rupees 50 value that might arise there to be tried in the District Munsif's Court in the taluq, and re-distributing the revenue and magisterial charges of the taluq between two officers of the class of Deputy Collector with the powers of a District Munsif superadded.

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3. The High Court were in favour of the withdrawal of the taluq from the jurisdiction of the Tellicherry Small Cause Court, but that Court has since been abolished altogether, and the jurisdiction of District Munsifs has been extended to suits of value not exceeding Rupees 2,500, while the Sub-Judges (formerly Principal Sadr Amins) have been invested with Small Cause jurisdiction up to Rupees 500.

4. The Governor in Council is not certain whether the Wynaad Taluq is included within the local limits of the Tellicherry Sub-Judge, but, assuming that it is so, it will be advisable to exclude it from his Small Cause jurisdiction. On this point the Acting District Judge of North Malabar will be directed to report.

5. The Governor in Council is not satisfied that necessity exists for creating at present in the Wynaad any Court having the full powers of a Court of Small Causes, *i.e.*, above Rupees 50, to which amount they are exercised by the District Munsifs; but Section 15, Act XI. of 1865, would seem to allow of these extended powers being vested in the Deputy Collector and Magistrate in charge of the taluq for specific periods in each year should such arrangement be deemed advisable, and it will be open to the District Collector of Malabar to bring forward proposals on this point if he thinks the arrangement necessary.

6. There remains the question as to the future station for the Deputy Collector and Magistrate, as the inclusion of the Ouchterlony Valley in the Neilgherry District renders the employment of an additional officer of this grade unnecessary.

7. At present the Deputy Collector and Magistrate is stationed at Manantoddy (where there is also a Tahsildar Sub-Magistrate on Rupees 200) and exercises the powers of a District Munsif. At Vythery there is a Deputy Tahsildar and Sub-Magistrate and District Munsif on Rupees 125 and the same at Goodaloor.

8. It is proposed to place the Deputy Collector temporarily at Vythery as an experiment, in which case it will be necessary to give District Munsifs' powers to the Tahsildar at Manantoddy and to withdraw them at Vythery either from the Deputy Collector or from the Deputy Tahsildar. If the Deputy Collector and Magistrate be vested with the full powers of a Small Cause Judge for specified periods in each year, it would seem proper in any case to withdraw from him the minor Small Cause jurisdiction.

9. But before coming to any decision on this point of the station for the Deputy Collector and Magistrate, which will necessarily involve some change in the powers of other officials in the taluq, the Governor in Council requires to have before him full information as to the amount of work which now devolves on each of these officers. The Collector of Malabar is, therefore, requested to submit returns in a tabular form for the last two years of the work performed by each of the officers concerned, *viz.*, the Deputy Collector and Magistrate, the Tahsildar and Sub-Magistrate of Wynaad, the Deputy Tahsildar and Sub-Magistrate of Vythery, and the Deputy Tahsildar and Sub-Magistrate of Goodaloor in the Revenue, Magisterial, and Judicial Departments, distinguishing in the last case the ordinary and summary jurisdiction.

10. It is observed that the Collector would select Sultan's Battery for the Deputy Collector and Magistrates' station, but suggests that, for the experimental

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transfer from Manantoddy, Vythery should be selected as accommodation can be hired there. The Government observe that whether Manantoddy be maintained or not, as the head quarters, the expense of building an office and residence has to be incurred.

(True Extract.)

H. Munro
for Chief Secretary.

To the Collector of Malabar.

- „ District Judge of North Malabar.
- „ Commissioner of the Neilgherry Hills.
- „ Revenue Department.
- „ Honourable the Judges of the High Court.
- „ Board of Revenue.

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Gobt. of 11873 *Madras*

JUDICIAL.

To
THE COLLECTOR OF MALABAR,
&c., &c., &c.

Dated July, 1873.

Recd. *July 21/85*

G. O., 12th July 1873, No. 1097.

Recd
JULY.
Nos. 72-76.

Wynad.—The transfer of Ouchterlony Valley to the jurisdiction of the Commissioner for the Neilgherries approved, and a report called for regarding the exclusion of Wynad from the jurisdiction of the Small Cause Court at Pallicherry; the investiture of the Deputy Collector and Magistrate in charge of the taluk with the full powers of a Court of Small Causes under Section 15, Act XI. of 1855, and as to the amount of work performed during the last 100 years by the Deputy Collector and Magistrate and Sub-Magistrates of Wynad, Vythiri, and Gundaloor in the Revenue, Magisterial, and Judicial Departments.

No 181

25 July 1873