

17A

POLITICAL DEPARTMENT.

Boundaries.

No. 355.

FROM

THE OFFG. CHIEF SECRETARY TO GOVERNMENT,
FORT ST. GEORGE,

TO

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT.

SIR,

To Chief Commissioner of Mysore, dated 27th October 1873,
No. 1199 (Revenue).
From Secretary to Chief Commissioner of Mysore, dated 5th
November 1873, No. 4388-35.
To Chief Commissioner of Mysore, dated 21st November 1873,
No. 1286.
From Officiating Secretary to Chief Commissioner of Mysore,
dated 7th November 1874, No. 4921-26.
To Chief Commissioner of Mysore, dated 7th November 1874,
No. 454.
From Secretary to Chief Commissioner of Mysore, dated 26th
November 1874, No. 6238-30.

I am directed to forward,
for the information of the
Government of India, the
accompanying copy of a letter
addressed to the Chief Com-
missioner of Mysore, dated
5th instant, No. 326, together
with the previous correspond-
ence marginally noted, re-
garding the settlement of the
frontier line between Mysore
and the district of South
Canara, in the Madras Presi-
dency.

I have the honor to be,
Sir,
Your most obedient servant,

FORT ST. GEORGE,
25th May 1877.

Offg. Chief Secretary.

Exd. A. S. Rodgers.

19A

GOVERNMENT OF MADRAS.

POLITICAL DEPARTMENT.

5th May 1877, No. 325.

Boundaries.

Read again—

*Proceedings of Government, Revenue Department, dated 27th January 1873, No. 104,
and 27th October 1873, No. 1198.*

Read also the following papers:—

*Letter to Chief Commissioner of Mysore, dated 27th October 1873, No. 1199.
" from Secretary to do. dated 5th November 1873, No. 4388-35.
" to Chief Commissioner of Mysore, dated 21st November 1873, No. 1286.
" from Officiating Secretary to do. dated 7th October 1874, No. 4921-26.
" to Chief Commissioner of Mysore, dated 7th November 1874, No. 454.
" from Secretary to do. dated 26th November 1874, No. 6238-30.*

No. 9. *From Major T. G. CLARKE, Officiating Secretary to the Chief Commissioner of Mysore, to the Secretary to Government, Revenue Department, dated Bangalore, 16th March 1877, No. 12826—R. 47.*

Adverting to the correspondence ending with this office letter, No. 6238-30, dated 26th November 1874, I am desired by the Chief Commissioner to solicit an expression of the views of His Grace the Governor in Council as to the course which he would deem it expedient to adopt for the purpose of determining the frontier line between this Province and the South Canara District at those points where it has been hitherto undefined.

2. On referring to the correspondence above alluded to, Mr. Saunders learns that the proposal made by Sir R. Meade of the appointment of a Joint Commission to settle the boundary line was in the first instance favorably entertained by the Madras Government, who were led, however, subsequently to withdraw their assent, on the ground that, while it would be quite practicable to take steps for the settlement of any portions of the boundary which may be the subject of doubt or dispute, it would be inexpedient to enter upon an investigation of a character to disturb and unsettle such portions of the line as are now recognized as forming the boundary.

3. The consideration of this question has again been pressed upon the Chief Commissioner by the necessity of preparing for the Topographical Survey of the province which is now in progress, and I am desired to enclose a copy of his Proceedings, No. 12613-313, dated 12th March 1877, from which it will be seen that the Chief Commissioner proposes to depute an officer of this administration to accompany the officers of that Survey in their "reconnaissance" of the frontier line, for the purpose of demarcating those portions of the boundary line which have been always recognized as such or which admit of no dispute. But, for the better accomplishment of this work, it will be most desirable, and even essential, Mr. Saunders conceives, that the aid and co-operation of the Madras Government should be obtained, and I am directed to state that, if the proposal to associate an officer of the Madras Government in the work of preliminary demarcation meet with the approval of His Grace the Governor in Council, the Chief Commissioner trusts that it may be found practicable to make a commencement during the cold-weather months of the present year.

ENCLOSURE No. 1.

Proceedings of the Chief Commissioner of Mysore, Department of Revenue, Agriculture, and Commerce, 12th March 1877, No. 12,613—R. 313.

From the Officer in charge No. 9 Party, Mysore Topographical Survey, to the Commissioner of the Ashtagram Division, No. 436, dated Mysore, 27th January 1877.

With regard to our conversation this morning about disputed boundaries, I have the honor to append an extract from the Surveyor-General's letter, No. 18, dated 5th instant, which has reference to the forest reserves in South Mysore.

2. I beg leave to observe that the same departmental rule and practice applies generally in all cases of disputed boundaries, and, if I may be allowed to say so with greater force, when the dispute is a State boundary as in the case of Mysore.

3. I would solicit your perusal of the Proceedings of the Chief Commissioner of Mysore, thereon "that the boundary in question must be determined by the Topographical Survey when constituted," wherein I venture to suggest the practice of the Topographical Survey Department to define boundary on their maps after they have been adjusted and settled on the ground, has been overlooked.

4. The delineation of boundaries on the topographical maps previous to their being settled free of dispute would result in continual questions and references owing to the maps not showing what might be the correct boundary after settlement, and at the least it would necessitate a new publication of the map or maps and might require a partial resurvey.

5. As for topographical purposes, it only needs that the boundary line should be sufficiently clear or conspicuously marked, to enable the Detail Surveyors to pick up the different points along the line as they come to them. I would respectfully submit that it would simplify the question of survey if disputes were arranged and settled before the Surveyors arrive on the ground.

Extract from Surveyor-General's letter, No. 18, dated 5th January 1877, to the Officer in charge No. 9 Party, Mysore Topographical Survey.

Para. 3. The Local Civil authorities are not, I presume, aware of the professional requirements of the work you have to undertake, and it is most essential that all such forest reserves should be demarcated and their boundaries adjusted free of all dispute before you can deal with them. This should be clearly intimated as the rule and practice of this department.

ORDER THEREON.—The Chief Commissioner observes that the objections offered by Captain McCullagh in the foregoing letter to the western boundary of the Province, which is in many points unsettled, being defined by the Officers of the Topographical Survey, are reasonable. The determination of the frontier line wherever it may be uncertain and in dispute is a work that must be performed by Revenue or other Officers specially deputed by the respective Government to investigate claims and settle the line of demarcation. But it will be impracticable to carry out this work in a tract of country largely covered with dense forest, and the details of which, as supplied by the former Ordnance Survey, are either incorrect or altogether wanting, until a "reconnaissance" has been made of the ground and a rough sketch of the principal features prepared.

2. This work is one which the Topographical Survey can most appropriately accomplish, and, when the time arrives for dealing with this portion of the country, the Chief Commissioner will be prepared to depute an officer to accompany the officers of the Topographical Survey engaged on the work for the purpose of ascertaining and fixing those portions of the frontier line which are not the subject of any dispute or doubt.

3. For the settlement of the disputed portions of the boundary line the co-operation of the Madras Government will be sought in obtaining the appointment of a Joint Commission, the proposals for which have already been discussed in communication with that Government.

T. CLARK,
Offg. Secretary.

No. 10.

ORDER THEREON, 5th May 1877, No. 325.
Ordered that the following letter be despatched to the Chief Commissioner of Mysore.

(Signed) D. F. CARMICHAEL,
Offg. Chief Secretary.

No. 11. To the Chief Commissioner of Mysore, dated Fort St. George, 5th May 1877, No. 326.

I am directed to acknowledge receipt of your letter, dated 16th March 1877, and to state that His Grace the Governor in Council concurs with you in considering that the approach of the Topographical Survey Party to the locality in question renders it necessary that a definite decision should be come to regarding the settlement of the frontier line between Mysore and Canara.

2. With reference to your request for an expression of His Grace's views as to the course he would adopt for the determination of the frontier line, I am to state that, looking to Lord Mornington's declaration that the provisions of the Partition Treaty of Mysore regarding the heads of the Passes were framed for the express purpose of "providing against any contingent changes however improbable in the State of Mysore," the Madras Government do not feel themselves at liberty to take any steps amounting to an abandonment in any sense of the provisions of Article I of the Treaty in question.

3. His Grace the Governor in Council will be prepared to depute an officer of the Madras Government to be associated with an officer of the Mysore Administration in the proposed "reconnaissance" during the cold months of the present year, and I am to submit the following further observations with reference to the principles which, under these circumstances, would, in the opinion of this Government, be most likely to lead to a satisfactory conclusion.

4. In your letter, dated 23rd August 1873, No. 2757—23 R., it was proposed that the boundary should be settled by the light of the village accounts and also with reference to undisputed possession for a term of, say, twenty-five years. If the application of the above proposals were limited to cases in which there is no discrepancy between the Mysore and Canara village accounts, they seem unobjectionable, but settlement by the light of the village accounts could hardly be satisfactorily applied to a case such as that which led to the original discussion on this subject, in which an examination of Mysore village accounts led to a claim being preferred by a Mysore officer to certain extensive and well-known cardamom jungles in the district of South Canara, and I am to suggest the following as the only satisfactory basis of settlement:—

- (a.) The treaty line to be recognized as the proper boundary line, but may be departed from where a locally-recognized boundary differing from the treaty line exists without dispute.
- (b.) When a dispute exists, the burden of proof to lie on the parties who allege a deviation from the line laid down by treaty.
- (c.) The nature of the proof to be left to the officers deputed to make the inquiry.
- (d.) The treaty line to be fallen back upon when the officers holding the inquiry are unable to come to an agreement as to the value of the proof submitted, or other wise to arrive at a satisfactory settlement.

5. With reference to the latter part of paragraph 4 of your letter, dated 7th October 1874, No. 4921—26 R., I am to add that His Grace in Council adheres to the definition of the treaty line laid down in my letter, dated 21st November 1873, No. 1286.

6. Copy of this letter and of the previous correspondence will be forwarded for the information of the Government of India.

(Signed) D. F. CARMICHAEL,
Offg. Chief Secretary

Exd. J. W. Fischer.

GOVERNMENT OF MADRAS.
POLITICAL DEPARTMENT.

42-43.
6th March 1878, 1

Boundar

Read the following paper:—

No. 16. From C. U. AITCHISON, Esq., Secretary to the Government of India, Chief Secretary to Government, dated 2847-P.
Foreign Department (Political), to
Fort William, 28th December 1877,

In acknowledging your letter, No. 355, of 25th May 1877, to the address of India in the Home Department, the Officiating Secretary to the Government, the proposed settlement of the forwarding copy of correspondence regarding the boundary line between Mysore and the District of South Canara in the Madras

* From Chief Commissioner, Mysore, No. 3700G, dated 9th July 1877.

To Chief Commissioner of Mysore, No. 2849-P, dated 28th December 1877.

Agency, I am directed to enclose copy of correspondence* with the Chief Commissioner of Mysore on the same subject, and to communicate the following observations and orders.

2. The treaty rights of the British Government to the lowlands, are clear and indisputable. With reference, however, to the absence of a well-defined boundary line and to doubtful possession, His Excellency the Governor in Council would exercise those rights with every consideration to the Mysore State, giving way here and there where it is politic or possible to do so without injury to British interests. The Governor-General in Council observes that it is not a present desired to sanction any hard and fast line, and the Government of India will be in a better position to give final judgment after it is placed in possession of the survey of the localities affected, and a report by the Commissioner whom it has proposed to appoint for the purpose of examining the boundary.

3. Adopting generally the views expressed by the Government of Madras in their letter to the address of the Chief Commissioner, Mysore, No. 326, dated 5th May 1877, the Governor-General in Council agrees to the appointment of an officer of the Mysore Administration as proposed, and down in paragraph 4 of that letter. who will conduct their inquiries on the basis of settle the boundary, but should be instructed to submit a report on the subject to the Government of India through the Government of Madras, and at the same time to furnish a copy to the Chief Commissioner of Mysore. A clear map showing the exact configuration of the country should accompany the report.

No. 17. ORDER THEREON, 6th March 1878, No. 142.

In the letter above recorded the Government of India state, with reference to the disputed boundary between Mysore and Canara, that the treaty rights of the British Government to the possession of the heads of the passes are clear and indisputable. The Government would exercise those rights with every consideration to the Mysore State, and then adopt generally the views of the Madras Government as expressed in their letter to the Chief Commissioner of Mysore, dated 5th May 1877, No. 326, and agree to the appointment of

of a boundary commission who will conduct their inquiries on the basis laid down in paragraph 4 of the letter above referred to, and submit a report on the subject to the Government of India through the Government of Madras, accompanied by a clear map showing the exact configuration of the country.

2. The basis of settlement thus approved by the Government of India is as follows:—

- (a.) The treaty line to be recognized as the proper boundary line, but may be departed from where a locally-recognized boundary differing from the treaty line exists without dispute.
- (b.) When a dispute exists, the burden of proof to lie on the parties who allege a deviation from the line laid down by treaty.
- (c.) The nature of the proof to be left to the officers deputed to make the inquiry.
- (d.) The treaty line to be fallen back upon when the officers holding the inquiry are unable to come to an agreement as to the value of the proof submitted, or otherwise to arrive at a satisfactory settlement.

3. With the above as a guide matters of detail may safely be left to the discretion of the officers appointed to carry out the work, but it seems necessary to draw their attention to the fact that in their letter of the 5th May 1877, the views expressed in which have been adopted generally by the Government of India, the Government of Madras specifically adhered to the definition of the treaty line laid down in their letter of the 21st November 1873, No. 1286, viz., that under the treaty the territories of the Rajah are bounded by the summits of the ghauts. They also indicated in paragraph 4, that, in their opinion, settlement by the light of village accounts is only free from objection in cases in which there is no discrepancy between the Mysore and Canara accounts. It is also distinctly understood that the definition of the territorial boundary will in no way affect rights of property or established individual possession.

4. An officer will be at once named for the work.

(Signed) H. B. GRIGG,
Acting Under Secy. to Govt.

No. 18. To the Chief Commissioner, Mysore, dated Fort. St. George, 6th March 1878, No. 143.

I am directed to forward the enclosed Proceedings of the Madras Government with reference to the disputed boundary between Mysore and Canara.

(Signed) D. F. CARMICHAEL,
Chief Secretary.