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CONCERNS BOTH BRITISH INDIA AND INDIAN STATES.

MADRAS RECORD OFFICE.

# Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1038 Press ~~Mis.~~

Dated 2 — 11 — 1891.

Not to be folded or roughly handle

*CONFIDENTIAL.*

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—again the following G.O., dated 5th October 1889, Mis. No. 6353, Revenue:—

*Read*—again the following G.O., dated 22nd December 1888, Mis. No. 7705, Revenue:—

Read—the following Proceedings of the Board of Revenue (Land Revenue), dated 17th October 1888, No. 882:—

H. S. THOMAS, ESQ., F.L.S., F.Z.S.
THE HON. W. S. WHITESIDE.

Read—the following letter from H. M. WINTERBOTHAM, Esq., Acting Collector of Malabar, to the Secretary to the Commissioners of Land Revenue, dated Calicut, 13th July 1888, No. 1970 P.:—

I have the honour to submit, through the Board, for the orders of Government, a report from the Head Assistant Collector, Mr. Dance, dated 12th instant, No. 51, written in his capacity of Boundary Commissioner for the settlement of the boundary between the Pálghat taluk and Native Cochin, on the subject of a dispute which has been going on for the last half century between the Kolangód Nambidi and the Cochin Sirkar regarding a large tract of forest lying to south-west of Vengoli peak.

Vengoli peak is situate about 14 miles north-west from the now recognized trijunction of Travancore, Cochin and Coimbatore.

The boundary is in dispute from Vengoli peak on the south-east to Kámankulam on the north-west.

Vengoli peak will be found in sheet 62 of the Trigonometrical Survey map, latitude 10° 25′, longitude 76° 52′.

The enclosed sketch will facilitate a reference to the Trigonometrical Survey map, and will explain the situation of the disputed tract. The sketch originally submitted by Mr. Dance was returned to him for correction, and the one now submitted has been prepared by Mr. Dance with the help of maps furnished by Mr. Kohlhoff, the Cochin Commissioner. It can only be taken as approximately correct.

2. The map made by Messrs. Ward and Connor in 1823 assigns the disputed tract to Native Cochin, and all subsequent maps have followed suit. This fact, however, is not to be taken as conclusive, for the correctness of Ward and Connor's demarcation has been repeatedly challenged by Native Cochin whenever it has been to the interest of that State to do so, and often with success.

3. The evidence for and against the Nambidi's claim is sufficiently set forth by the Head Assistant Collector and I will not waste time by repetition. I do not regard the Nambidi's grandhavari as very good evidence of title. I do not see that it can be looked on as anything but a statement made by a claimant in his own interest, not made on oath, and not subject to cross-examination. If it had been produced to support the claim at the time it (the grandhavari) was made, it would have been rejected with ridicule as irrelevant; and it would be strange if mere lapse of time converted it into acceptable evidence of title. It does, however, serve to show the antiquity of the claim.

What is more to the purpose is that the Madras Government in 1849 accepted a lease of his forests from the Nambidi, and that the boundaries specified in it clearly include the disputed tract (*vide* para. 7 of Head Assistant's report). Numerous other leases have from time to time been granted by the Nambidi, with descriptions of the boundaries taken from the grandhavari and including the disputed tract.

4. The Cochin Sirkar have also in ten, not consecutive, years ranging from 1839 to 1874 spasmodically felled (or caused to be felled) timber on the north-eastern, or Malabar verge of the disputed tract, which appears to be the only accessible part whence timber can be hauled at a profit. The Nambidi appears always to have complained of such felling as a trespass and invasion of his rights.

5. Mr. MacGregor (when Collector of Malabar in 1872) visited the disputed forest and calls it "a sort of debatable land in which no party exercised unchallenged rights." He found scarcely any evidence of the forest having been worked. The truth seems to be that, owing to its inaccessibility, the tract has hitherto been a no-man's land, and that neither claimant can prove any undisputed act of ownership.

How the forest was worked during the two years' lease in Mr. Robinson's time cannot, I fear, now be discovered; but as the disputed tract was only a portion of the whole extent, and not the most accessible portion, it cannot be inferred with certainty that any felling was carried on in it.

6. The decision of the case matters little to Government; for if the tract is decided to be British territory, Government will have almost as little interest in it as if it belonged to Native Cochin. If it were ever desired to obtain a lease of the tract it might probably be got on quite as easy terms from the Cochin Sirkar as from the private jammi.

7. It is instructive to note the different methods followed by the two Governments of dealing with janmam claims to forest tracts.

Supposing the tract to be held to be part of Malabar, the British Government will acquiesce in and permit its courts to reiterate the audacious legal fiction that all forest in Malabar is private property. The forest will, therefore, go to the Nambidi in default of another claimant. If the tract is held to be in Native Cochin, the Native Government will reject this proposition as preposterous, and will hold that unoccupied forest vests in the State for the use and benefit of the people at large. Yet the Cochin State (like Malabar) is part of the realm in which the "birth-right" according to native belief is a divine ordinance, and the Cochin Sirkar is "native and to the manner born"!

It would seem that the Native Government is in the better position for estimating the sacredness of "janmam" claims. Personally I think the Cochin view is the right one; but any way it renders intelligible the extreme aversion of the Nambidi to submit his "janmam" claims to the Native Cochin courts for adjudication.



8. I am inclined to suggest that the dispute should be settled by splitting the difference.

The Parambakollam river seems to present a fair natural boundary on the south, and I think it would not be difficult to run the boundary so that each State should take about half of the disputed tract.

9. If this is not approved, I can only record my opinion that the evidence pointing to the fact that the disputed tract is British territory outweighs the evidence to the contrary afforded by Ward and Connor's map.

Mr. Kohlhoff, the Cochin Commissioner, dissents from the British Commissioner's report, and will, I believe, submit a separate report through his Government. I cannot say how far the views I have expressed would be modified if I had had the advantage of perusing it.

10. It is noteworthy that neither of the claimants has thought it worth while to examine as witnesses the kádar or jungle-people who frequent the forest in dispute. I have ascertained from Mr. Dance that the omission was not an oversight; and that it was thought that the jungle-people's evidence was worthless, because they shift their allegiance from one side to the other as urged by the spur of the moment.

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ENCLOSURE No. 1.

From G. W. DANCE, Esq., Acting Head Assistant Collector, to the Acting Collector of Malabar, dated Pálghat, 12th July 1888, No. 51.

I have the honour to submit herewith a report on the dispute between the Nambidi of Kolangód and the Cochin Sirkar.

2. *Nature of dispute.*—The Cochin Sirkar claims that the line laid down in the map prepared by Lieutenants Ward and Connor in 1823 should be accepted as the boundary. The nature of the Kolangód Nambidi's claim is shown in the accompanying sketch. The red and blue line is Ward and Connor's. The brown line represents roughly the boundary claimed by the Nambidi as far as he is able to identify it on the map. The Nambidi first marked out a line extending nearly as far as Vellatmudi and comprising most of the coffee estates on the Nelliampathi hills, but this was because he did not understand the map. The line now drawn represents his claim approximately. From Kámankulam northwards the boundary shown in Ward and Connor's map is admitted by the Nambidi to be substantially correct though small differences may perhaps exist.

3. *The Nambidi's claims are based on the grandhavari.*—The Nambidi's claims are based on the grandhavari or boundary roll which was prepared by the Nambidi in 1781. An extract from it showing the boundary from Vengoli to Kámankulam is given below.

"*Vengoli*, south, Payara Todu Para, south-west *Koothparamba*, south *Parambakulam Kavani Keya* chal, south Pambala Para, south-west Kalli Para, south-west Tevoo Aru, south-west Pathekal Para, south Chunkam Veeha Thadi, south Elanthalachi river, south-west *Velangee Mookavazhi*, *Ambalapara Mookavazhi*, thence * South Travancore territory, west Panjichal Para, Odam Kowyil river, west Koopel Chaval Para, west Maden Poorah Para, west *Oroo Komban Para*, north-west Mavalah Para, north-west Erakam Kootpoya, north Kariyala Todu Muthuthala Kooye Chothupara Todu, north Chalam Kurunda Medah, north Manha Kunnu, Kanialuva Todu, thence to Vaga Pallam Todu, Charana Todu, Kalpadi Ayee Todi, Kurumban Kandam Vayil, Shaniyashi Kunnu Vayal, Vayanchalkulam, *Kámankulam*."

* NOTE.—Thus according to the grandhavari the Travancore territory should begin at Mookavazhi, whereas Travancore (now at least) claims no land within six miles of it (*vide* sketch).

(Initialled) H. W.

I have been unable to identify any of the names in the map, except those which are italicised. Manha Kunnu and Koothpara Todu would seem at first sight to correspond with Manhakutti and Kuttapara Todu, except that in the grandhavari they are shown as being south of Kámankulam, whereas in the map they are to the north-east. It is, however, evident that the Nambidi's boundary runs in a south-westerly direction from Vengoli through Koothparamba and the Parambakulam river to Mookavazhi which is to the north of the Travancore boundary,

thence westward along the Sholayar river to Oroo Kombanpara and thence north-east to Kámankulam. The Nambidi will be able, if the Government decide that the boundary claimed by him is to be adopted, to point out the intervening places mentioned in the grandhavari, which cannot be found in the map, by means of his kádars, a forest tribe who inhabit the Agamalai forests.

4. *The grandhavari was accepted as the basis of the settlement between the Nambidi and Coimbatore.*—The grandhavari was accepted by Messrs. Robinson and Walhouse in 1850 as the basis of the settlement between the Nambidi and Coimbatore. In paragraph 6 of their report, dated 28th May 1850, they remark: "We can find no ground on which to doubt the antiquity or authenticity or to invalidate the authority of this important title-deed (viz., the grandhavari) to which great weight would, we believe, be attached in any legal investigation. The internal evidence it contains of accuracy and care in preparation has been tested." The Government concurring with Messrs. Robinson and Walhouse in their Minutes of Consultation No. 883, dated 18th September 1850, the boundary in dispute was laid down in accordance with the grandhavari as far as Vengoli peak. When part of the boundary then settled was subsequently again disputed, the Board recommended that the line should be laid down in "strict accordance with the grandhavari," and Government in their Order, No. 1081, dated 19th July 1872, "approved of the boundary being laid down in strict accordance with it."

5. *The grandhavari has always been referred to by British officials.*—Mr. Silver, Head Assistant Collector of Malabar, in his memorandum, dated 4th October 1842, on a disputed boundary between Malabar and Coimbatore, refers to the grandhavari and states that stones were found buried at different points shown in it, bearing the mark of the Kolangód Nambidi (Vira Ravi Sri) and from the fact that roots, &c., had grown round them, Mr. Silver considered that they had not been freshly planted. There are many other official papers among the boundary records furnished to me, which it is unnecessary to quote, in which the grandhavari is always referred to with great respect.

6. *The Agamalai forest with the boundaries shown in the grandhavari was held by the Conservator of Forests from* 1806 *to* 1823.—Messrs. Robinson and Walhouse further state in paragraph 8 of their report above quoted that "under the orders of the Court of Directors, dated 7th January 1806, the conservancy of all Malabar teak forests was undertaken, and, among others, that of the teak forests in the Agamalies, the property of the Kolangód Nambidi, was assumed and directly managed by the Conservator and his establishment. The Conservators had the grandhavari boundary roll of the Nambidi of Kolangód in its present integrity before them and they assumed the boundaries as therein indicated to be correct and accepted this as the foundation of their surveys and operations." The accounts relating to Captain Watson's conservancy are not among the records furnished to me, so that I have no means of knowing whether he felled timber within the disputed tract; perhaps the accounts may be forthcoming in your office. The conservancy referred to lasted till 1823.

7. *Leases granted by the Nambidi.*—The Nambidi next produces, in order to show that he has exercised rights of possession over the disputed tract, a number of leases which have been granted by him from time to time. The most important of these is one granted to Mr. Henry Gardner, Sub-Conservator of Forests, in 1841, in which the boundaries given are those shown in the grandhavari. It appears from the report of Messrs. Robinson and Walhouse above quoted "that prior to this and on the abolition of the conservancy in 1823, Mr. Gardner of Pálghat, who till that time had as Sub-Conservator under Government administered and worked all the Kolangód forests, entered as a private merchant into a contract with the Nambidi of Kolangód for the exclusive felling of timber in the Kolangód forests then relinquished by Government. His contract specified the boundaries as laid down in the grandhavari . . . In 1826 it appears that certain wood felled by him was attached by the Coimbatore Sirkar, &c." The Nambidi argues that Mr. Gardner being a British Forest-officer could not have been ignorant of our boundaries and would not have taken a lease from the Nambidi to fell in Cochin



territory. Mr. Gardner was subsequently sued in 1844 by the Nambidi in the District Court of Calicut with respect to this lease of 1841, and in the plaint the leased forest is described as extending on the south towards Travancore. A number of other leases granted to private persons as marginally-noted to cut in the Nambidi's forests from 1849 to 1862 have been produced. In all these leases the full boundaries of the Agamalai forest, as shown in the grandhavari, have been given. There are also many leases of later date, but in them the forest is merely specified as the "Agamalai" and no boundaries are given. It seems to have been the practice of the Nambidi to grant leases to different persons to cut a certain number of trees anywhere within the limits of his forests, which accounts for several persons having been granted leases at the same time to fell in his forests. In 1842 the Nambidi gave security for Rs. 50,000 for the Husúr cashkeeper. Among other properties entered in the security bond was the Nambidi's Agamalai forest with boundaries in accordance with the grandhavari.

1. Ramagivan Pandu (in 1849).
2. Nellisseri Venketeswara Iyen (in 1849).
3. Mr. Tomlinson (in 1849).
4. East India Company (in 1849).
5. Nurni Ramaswami Pattar and Venketakrishna Pattar (in 1025 M.E.).
6. Nurni Seshan Pattar (in 1025 M.E.).
7. Pattikara Kumara Shami Chetti (in 1025 M.E.).
8. Nellitharayil Vellalan (in 1025 M.E.).
9. Kongathattan Tiruman (in 1020 M.E.).
10. Nurni Seshan Pattar (in 1026 M.E.).
11. Kongathattan Tiruman (in 1026 M.E.).
12. Nellisseri Venketeswara Iyen (in 1026 M.E.)
13. Nurni Raghavan Pattar (in 1026 M.E.)
14. Nurni Seshan Pattar (in 1026 M.E.).
15. Nellicheri Ananda Iyen (in 1026 M.E.).
16. Kumaraswami Chettiar (in 1029 M.E.).
17. Koduvayur Kelu Menon and Vadavannur Krishna Menon (in 1037 M.E.).
18. Coimbatore Collector on behalf of the British Government.

In 1849 Mr. (afterwards Sir William) Robinson, on behalf of the Madras Government, accepted a lease for two years of the Agamalai forests from the Nambidi, in which the boundaries given in the grandhavari extending to Mookavazhi and Orookombanpara were accepted. The accounts of the felling operations are not forthcoming among the records furnished to me; possibly they may be in your office. Without such accounts, it is impossible to say where timber was actually felled.

8. *Portion of the disputed tract shown as forming part of the Nambidi's Agamalai forests in accounts prepared in* 1839 *and* 1840 *under the orders of the Collector.*—In accounts prepared by the Temelpuram tahsildar of the items included in the Nambidi's Agamalai forest in 1839 and 1840, Parambakulam and Koothparamba are shown as forming part of the forests leased to Government. These accounts appear to have been prepared under the orders of the Collector of Malabar, as the tahsildar in the accounts mentions the order in accordance with which they were prepared.

9. *The Cochin Sirkar do not admit the validity of the grandhavari.*—The Cochin Sirkar do not admit the validity of the grandhavari, which they say is merely an *ex-parte* document. If the Madras Government accepted the grandhavari as a guide in deciding a claim of one of their tenants, that is no reason why it should be accepted as the basis of a settlement between the Madras Government and the Cochin Sirkar.

10. *And assert that the present dispute was decided by Government in* 1854.—The Cochin Sirkar further assert that all claims on behalf of the British Government to the tract now claimed by the Nambidi were formally relinquished by the Madras Government in their Minutes of Consultation, dated 2nd June 1854, in which the boundary line shown in Ward and Connor's map from Vengoli peak to the trijunction of Coimbatore, Cochin, and Travancore was confirmed and "ordered to be recognised for the future as the frontier between the two states." This decision was subsequently again affirmed by the Madras Government in their Minutes of Consultation, dated 7th March 1856, and in G.O., No. 708, dated 30th May 1876.

11. *The Nambidi does not admit that his claim was decided by the G.O. of* 1854.—The Nambidi, however, does not admit that the Minutes of Consultation above quoted affect his claim at all.

He does not wish to interfere with the boundary then laid down by Government. He claims in the present case a boundary running to the west of that line, which latter, as far as the Nambidi's claim is concerned, will still be the "frontier between the two states." In addition to this, the Nambidi urges that he was not a party to the dispute between Cochin and Coimbatore and his claims were not then gone into. Fearing that his claims might have been considered to have been waived if he raised no protest, he put in a petition to the Board of Revenue, after the order above quoted was passed, and he received a reply from the Board, dated 7th September 1854, to the effect that "if he had any claim to prefer to any portion of the forest land awarded to the Cochin territory (by the above Government Order) he should advance it through the Collector of Malabar." There are so many allusions in subsequent correspondence with Government and the Board to the Nambidi's dispute with the Cochin Sirkar being unsettled that it would not seem that the G.O. of 1854 was considered to have affected the Nambidi's claims.

12. *The line as shown in Ward and Connor was accepted by Messrs. Stevenson and Douglas in* 1871.—The Cochin Sirkar further urges that the line from Vengoli peak to near Manhakutti as shown in Ward and Connor was accepted as the boundary between the two states by Mr. Douglas, the British Conservator of Forests, and Mr. Stevenson, the Cochin Conservator, in 1871. Messrs. Douglas and Stevenson appear not to have been empowered to act as Boundary Commissioners, their object being to "inspect" the boundary between the Kolangód Nambidi's forest leased to Government and the Cochin territory (*vide* Mr. Douglas' letter to the Deputy Superintendent, No. I Party, Madras Survey, of 1st November 1871). Marks were cut by them on rocks to mark the boundary line, and Mr. Douglas in paragraph 17 of his letter says that the Nambidi's representative "was not present although he had ample warning."

13. *The Nambidi contends that Messrs. Douglas and Stevenson's demarcation was not final.*—In reply to this, the Nambidi urges that Messrs. Douglas and Stevenson had no authority to settle the boundary, and it is evident that their visit was not considered to have put an end to the dispute because the Board of Revenue in their Proceedings, No. 2699, dated 21st September 1874, allude to "land south-west of Vengoli peak claimed by both Malabar and Cochin." Again the Board in their Proceedings, No. 983, dated 11th April 1876, allude to the proposed settlement of the boundary "westwards from Vengoli peak."

14. *Accounts produced by the Cochin Sirkar to prove that they have exercised rights of possession in the disputed tract.*—In order to show that they have exercised rights of possession within the disputed tract, the Cochin Sirkar produce accounts showing that they have felled timber at Koothparamba and Parambakulam in 1014 (1839), 1030 (1855), 1031 (1856), 1032 (1857), 1036 (1861), and 1049 (1874), and that they gave out the right of felling in these places on contract in 1032 (1857), 1034 (1859), 1036 (1861), and 1037 (1862).

15. *The Nambidi has not acquiesced in the rights of possession exercised by Cochin.*—Whatever rights of ownership may have been exercised by the Cochin Sirkar within the disputed tract, the Nambidi has not tacitly acquiesced in them. In 1854 and 1858 the Nambidi complained of the Cochin Sirkar having trespassed on Parambakulam and Koothparamba, and in 1855 Mr. Knox, the Head Assistant Magistrate of Malabar, issued warrants to arrest the subjects of the Cochin Sirkar who had trespassed on the above places. Again in a letter to the Resident of Cochin, dated 26th May 1853, the Diwan alludes to the fact that "in October 1849 when the Sirkar hill servants were felling teak timber at Parambakulam, west of Anamalai-shairy, the Coimbatore authorities illegally interfered with and seized and took away two of them to Polláchi."

16. *Rights of ownership probably not exercised by either party over a great part of the disputed tract.*—It is probable that, with the exception of Kamankulam and its neighbourhood, where several disputes have occurred from time to time as shown in the accompanying sketch, Koothparamba and Parambakulam are the only portions of the disputed tract in which any attempt has been made by either side



to exercise rights of ownership. The country to the south of the Parambakulam river is dense jungle and so inaccessible that it would probably not be worth while to fell timber there, the cost of removal being prohibitive. Mr. MacGregor, the Collector of Malabar, referring to the tract now in dispute, said in a letter to the Collector of Coimbatore, No. 1349-B, dated 14th May 1874, that "in 1872 he traversed the forests contained within the limit (claimed by the Nambidi) for a considerable distance, and from what he saw and heard he drew the conclusion that it was a sort of debatable land in which no party exercised unchallenged rights. It abounded in teak trees of splendid growth in all stages of maturity and decay with no evidence of working save in one or two rare instances when a few squared logs were seen blackened by age and exposure, and, as he was informed, cut many years ago and not removed owing to disputes."

17. *The Cochin Sirkar urge that no dispute could have existed when Messrs. Ward and Connor surveyed the line.*—Another point urged by the Cochin Sirkar is that when Messrs. Ward and Connor surveyed the line, no dispute could have existed, because in all cases where there were disputes the boundary has been marked "disputed" and no dispute has been marked in the present case. The Nambidi, on the other hand, asserts that Ward and Connor's survey was a purely military and geographical one, and that their map has been repudiated more than once by the Cochin Sirkar when it has been adverse to the Cochin claims. This is true, as the Cochin Sirkar will themselves admit. I may mention, among other instances, the dispute of the Pozhakal Edom. In that case the Cochin Sirkar refused to accept the line as shown in Ward and Connor's map, and the line was accordingly altered and a large tract of forest, which was then claimed by the British janmi and which according to Ward and Connor's map was in our territory, was surrendered to Cochin by G.O., No. 91, dated 26th January 1852. Again in the case of Nellikal Edom, Mr. Knox, the Sub-Collector of Malabar, in his letter to the Collector, dated 7th May 1855, No. 57, states that "in the previous seven miles the Cochin Sirkar had successfully proved the incorrectness of this map" (viz., Ward and Connor's map). Again in the dispute of the Kannambra Nair the Cochin Sirkar have repudiated Ward and Connor's line. I know of these disputes as they were all on the boundary of the Pálghat taluk, but I believe there are several other instances in which the Cochin Sirkar have repudiated Ward and Connor's line. At the same time, it must be admitted as Mr. Galton, Acting Collector of Malabar, stated in his letter to the Board of Revenue, No. 4529, dated 7th November 1883, that "Ward and Connor's line has been taken as the basis of settlement in determining the boundary throughout between British territory and the States of Cochin and Travancore."

18. *So the grandhavari or Ward and Connor's map to be accepted as the basis of settlement in the present case.*—The question, which is now to be decided by Government, is whether the grandhavari or Ward and Connor's map is to be accepted as the basis of settlement in the present case. The Nambidi's grandhavari has once been accepted as a basis for settling the boundary of one portion of his Agamalai forests, and, therefore, in my opinion, should be accepted as the basis of settlement of the rest. Its authenticity and reliability has been admitted by every British official who has had occasion to inquire into the boundaries of the Nambidi's Agamalai forest from Captain Watson in 1806 to the present time. The Cochin Sirkar, on the other hand, base their claims on Ward and Connor's map, which they have not hesitated to repudiate in other instances whenever it was adverse to their claims.

As regards the evidence of possession of the tract in dispute, the Nambidi produces his leases, of which the most important are those granted to Mr. Henry Gardner and Sir William Robinson as showing that two officials who were peculiarly well qualified to know accepted as correct the boundaries of the disputed tract as shown in the grandhavari and extending southwards towards Travancore. From 1807 to 1823, the Nambidi's forests, as shown in the grandhavari, were managed by the British Conservancy Department. Since the abolition of the conservancy up to the present day, the Nambidi's forests have been leased out from time to time. In the leases from 1849 to 1862 the Nambidi has invariably specified the boundary

in accordance with the grandhavari. In subsequent leases the boundaries have not been specified, but the forest has simply been shown as the "Agamalai." Accounts are not forthcoming to show where timber has actually been felled.

The Cochin Sirkar, on the other hand, produce the accounts mentioned above to show that they have been felling timber within the tract claimed by the Nambidi; but the Nambidi, as mentioned in paragraph 15, has always regarded the acts of the Cochin Sirkar in felling timber within the disputed tract as trespasses, and when he was informed of them invariably complained to the British authorities.

As regards the contention of the Cochin Sirkar that the present dispute was settled by the G.O. of 1854 passed on Captain Horsley's report, I have already stated in paragraph 11 that I do not consider that the Nambidi's claim is in any way affected by it. I request that the matter may be submitted for the orders of Government.

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Reference on the above, dated 6th August 1888.

The Conservator of Forests, Southern Circle, will be requested to favour the Board, at a very early date, with his views on the matter, and also to report if there is any information available in his office bearing on it. Mr. Douglas, it would appear, must know something of it.

(Signed) H. A. SIM,
Acting Secretary.

To the Conservator of Forests, Southern Circle, with
letter and enclosures, in original, to be returned.

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Office-note from C. G. DOUGLAS, Esq., Examiner of Forest Accounts, dated Madras, 15th September 1888.

[*Subject.*—The Board's Reference on General Register No. 2397 of 1888, forwarding to the Conservator of Forests, Southern Circle, a letter from the Collector of Malabar, dated 13th July 1888, No. 1970-P., relating to a boundary dispute between the Cochin Sirkar and the Nambidi of Kolangód.]

I offer the following remarks for what they may be worth on paragraphs 10, 11 and 12 of the Head Assistant Collector's report which accompanied the above reference.

2. I used to be well acquainted with the tract in dispute and frequently visited it when in charge of the Anamalai forests; it was in dispute between the Nambidi and Cochin eighteen years ago and had been so far at least thirty years previous.

3. At one time Coimbatore was also a claimant, but was put out of court by the award of 1854.

4. Cochin asserts (paragraph 10 of Mr. Dance's report) that this award confirmed them in possession to the exclusion of the Nambidi, who, however, contends that it did not affect his case at all, and that his claims were not even investigated at the inquiry which preceded it (paragraph 11 of the report).

5. Cochin also urges that in 1871 Mr. Stevenson, their then Conservator of Forests, and I accepted Ward and Connor's line from Vengoli peak westwards as the boundary between Cochin and British territory, but Mr. Dance questions our authority, and the Nambidi denies the finality of our decision (paragraph 12 of the report).

6. Touching the award of 1854, the opinion of every British officer who has had to do with the case is, I believe, that it did not dispose of the Nambidi's claim, but merely effected a settlement between Cochin and Coimbatore.



7. References could probably be multiplied, but the following are, I think, sufficiently conclusive:—

(1) Board's Proceedings, dated 11th April 1876, No. 983, relating to an unsuccessful attempt on my part to revive the Coimbatore claims and containing my letter to the Collector of Coimbatore, dated 16th February 1876, No. 1, paragraphs 23, 24, and 25 of which are to the point, as well as paragraphs 6 and 7 of the Board's Proceedings thereon.

(2) Board's Proceedings, dated 4th September 1876, No. 2265, concerning a case of elephant-shooting in the disputed tract, and urging the necessity of settling the question of ownership, with reference to letters on the subject from the Collectors of Malabar, Coimbatore and myself.

(3) Proceedings of Government, dated 7th October 1876, No. 1442, embodying a letter from the Resident in Travancore and Cochin, dated 23rd September 1876, No. 75, to the 4th paragraph of which and to the order thereon attention is invited.

8. From these papers, nothing can be plainer than that twelve years ago the Nambidi's case was still considered an open one, and nothing that I am aware of has since transpired to alter this view.

9. With regard to the State boundary which Mr. Stevenson and I are alleged to have accepted in 1871, the facts are these. Ward and Connor's line from Vengoli peak westward happens to be the southern limit of the Tekkadi leased forest, which was then (1871) about to be surveyed. The country beyond was known to be in dispute, and Cochin, being one of the claimants and possibly a future legally-recognised owner, had to be consulted before demarcation could safely proceed. Mr. Stevenson and I met accordingly and agreed as to the southern and part of the western boundary of the leased forest, but to nothing more. I had no authority to settle any dispute or to accept any State boundary, and to prove that I did not do so, it is only necessary to refer to the map of the forest subsequently prepared by the Survey Department (published in 1875) which clearly shows the country to the south to be "*claimed by Cochin and Malabar.*" This has all the more significance because I was intimately associated with Mr. Baber, Assistant Superintendent, in the work of demarcation and survey.

10. In short, the orders of 1854 and the inspection of the leased forest boundary in 1871 are practically almost identical in their bearing on this dispute. The first simply declared that Coimbatore would no longer advance any claim beyond Ward and Connor's line from Vengoli peak *southward*, and the second that the Forest Department had no concern with anything beyond Ward and Connor's line from Vengoli peak *westward*, which is the southern boundary of its leased forest, about which there never had been any doubt, and which Mr. Stevenson and I identified without difficulty. To argue that the Nambidi's claim was affected either by the decision of 1854 or by any proceedings of mine in 1871 is, in my humble opinion, contrary to reason. Neither was relevant to his dispute with Cochin beyond clearing the ground of a third party and leaving the question of real ownership to be fought out on some future occasion.

11. As to Ward and Connor's map, I can only say that I have often found it an unreliable guide to the Anamalais, and I speak from some experience, having as boundary officer explored and demarcated the whole forest frontier between the district of Coimbatore and Malabar, Cochin, Travancore and Madura. The Survey Department and Messrs. Peet and Porter have also discovered its untrustworthiness, while, as both Mr. Winterbotham and Mr. Dance remark, Cochin itself has never hesitated to impugn its accuracy when convenient. I confess I have little confidence in its authority in the present case.

12. Whichever way the dispute is settled, the Collector of Malabar thinks there will be no difficulty in obtaining a lease of the land on easy terms if desired. This should not be lost sight of, for the forests are rich in timber and the tramways now being laid down at no great distance in the Coimbatore district may, if results

justify their extension, eventually become the means of developing valuable resources hitherto inaccessible.

To the Secretary to the Commissioners of Land Revenue,
through the Conservator of Forests, Southern Circle,
with a map to be returned and with the original
papers received with the Board's Reference returned.

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Endorsement by the Acting Conservator of Forests, Southern Circle, dated Madras, 25th September 1888, No. 1795.

Forwarded. I have nothing to add to Mr. Douglas' note, which shows, as far as Forest Department is aware, that there has always been a dispute south of the Kolangód leased forest, and that Forest-officers have not in any way admitted the claims either of the Cochin Sirkar or the Kolangód Nambidi.

2. The remarks in paragraph 7 of Mr. Winterbotham's report are particularly interesting, though they show how hopeless it would be for the British Government to put forward, on its own account, any claim to the territory in dispute. Mr. Douglas, who knows the area well, states that the forests are rich in timber, and it is possible that we may hereafter be tempted to obtain a lease, when ownership has been established, but in the meantime, and while both claimants are uncertain as to the result of their claims, would it not be better to offer to buy them both out?

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Read—letter from the Examiner of Forest Accounts, Madras, dated 2nd October 1888, No. 1341.

ABSTRACT.—Submitting a memorandum from the Kolangód Nambidi representing his claims to certain tract of forest land claimed by the Cochin Government.

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Resolution—dated 17th October 1888, No. 882.

Submitted to Government.

2. Mr. Dance, the British Commissioner appointed in G.O., dated 11th January 1888, No. 195, to settle the boundary between Malabar and Native Cochin, submits for orders the claim put forward by the Kolangód Nambidi (on behalf of the British Government) to a portion of the land which is marked in the map as belonging to Cochin.

3. The claim relates to a portion of forest land lying south-west of Vengoli peak, the trijunction point of Coimbatore, Malabar and Cochin, and has been brought forward by the Nambidi, because, though of little importance to the British Government, it is of importance to him as bringing his janmam claims within the British courts, instead of those of Cochin. The area of the land is not stated, but it appears to be some 15 square miles.

4. The dispute is a longstanding one, and the arguments brought forward on either side appear to be weak. On the Nambidi's side, the whole case rests on the grandhavari, or boundary roll, of 1781: this, though drawn up by the Nambidi himself, is admittedly old, having been in the hands of British officers in 1806, and being found marked on the ground at any rate in 1842; it has been accepted as genuine and acted on by the British Government in its Coimbatore boundary settlement of 1850; the boundaries entered in it have been entered in all the Nambidi's leases, some of which were to the British Government, and trespasses upon the land included in it have been consistently complained of. On the Cochin side, the case rests on Ward and Connor's line of 1823, which the Cochin Sirkar claim was accepted by the British Government in 1851 and 1871, and on occasional fellings in various years, dating from 1839. The acceptance of Ward and Connor's



line by the British Government for any point *westward* of Vengoli peak is, however, disproved by Mr. Douglas, and the fellings were objected to at the time.

5. In fact, the evidence of actual possession is *nil:* partly because of the rugged and inaccessible character of the country, and partly because of the dispute itself, which has left the tract a no-man's land; for the same reason, the mere entry of the boundaries in the leases proves nothing.

6. The case therefore rests, for the Nambidi, on the one-sided boundary roll, and for Cochin, on Ward and Connor's line: the former seems the stronger, for it dates further back than the latter; and the latter has already in numerous cases been successfully impugned, in some by Cochin itself.

7. The Board are not in possession of the arguments of the Cochin Commissioner, Mr. Kohlhoff, but unless they alter the aspect of the case very much, the Board consider that the British Government are entitled to claim the whole of the tract now in dispute: its intrinsic value to Government is, however, so small, and the advantages of a good natural boundary so great, that the Board recommend that the tract be first roughly surveyed, and claim laid only to the best boundary, whether that include the whole or only a part. The Nambidi in his petition, which is enclosed, asserts that his grandhavari boundaries are natural ones, but this does not agree with the map, and remains to be proved.

8. The Conservator's proposal that *both* parties should be bought out does not commend itself to the Board on any grounds of economy.

9. Mr. Dance's report and Mr. Douglas' note are full and complete.

(True Copies and Extract.)

(Signed) H. A. SIM,
Acting Secretary.

To the Secretary to Government, Revenue Department,
with two maps and petition in original.

Copy to the Collector of Malabar.
" " Conservator of Forests, Southern Circle.
" " Examiner of Forest Accounts.

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Order—dated 22nd December 1888, Mis. No. 7705, Revenue.

With the above Proceedings, the Board of Revenue submit a report of the Commissioner appointed by Government to settle the boundary between the Pálghat taluk and Native Cochin, and other papers relative to a dispute between the Kolangód Nambidi and the Cochin Sirkar regarding a large tract of forest land.

2. Before arriving at a decision in the matter, the Government desire to peruse the report which the Cochin Commissioner may have made to his Sirkar. The Resident, Travancore and Cochin, will accordingly be requested in the Political Department to obtain and submit the same together with an expression of the views of the Sirkar on the subject.

(True Extract.)

(Signed) C. A. GALTON,
Secretary to Government.

To the Commissioners of Land Revenue.
" Political Department.

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*Read*—also the following letter from J. C. HANNYNGTON, Esq., Resident in Travancore and Cochin, to the Chief Secretary to Government, dated Pirmed, 6th April 1889, No. 40:—

In reply to the Government Order, Reference on No. 12 of 1889, I have the honour to return the papers which accompanied it, together with the Cochin Commissioner's report, and a letter No. 529 of 29th March 1889, to my address (in original) expressing the views of the Cochin Sirkar on the subject of the disputed forest.

ENCLOSURE.

From T. GOVINDA MENON, Esq., Dewan of Cochin, to the British Resident in Travancore and Cochin, dated Chowerah in Cochin, 29th March 1889, No. 529.

I have the honour to acknowledge the receipt of your letter No. 84, of the 17th January last, forwarding the Proceedings of the Board of Revenue, dated 17th October 1888, No. 882, and the G.O. thereon, dated 22nd December 1888, No. 7705 (both of which are herewith returned), and desiring me to submit the Cochin Commissioner's report as well as the views of the Sirkar on the boundary dispute therein alluded to.

2. In reply I beg to state that the report of Mr. Kohlhoff, the Cochin Commissioner, has been already submitted with my letter No. 1959 of the 22nd December 1888.

3. As regards the views of the Sirkar, I have the honour to say that they are in entire accord with those of the Cochin Commissioner.

4. The dispute to be decided must be considered as one between the British Government and Cochin, and not as one between Cochin and the Kolangód Nambidi. Cochin claims both the sovereignty and the jenm of the disputed tract. The Collector of Malabar, for the British Government, claims the sovereignty only and the Nambidi claims the jenm only of the same tract. So far as the jenm right is concerned, it is a matter for the decision of the civil courts of the State in which the land is situate. It is only the question of sovereignty that has to be decided by the arbitrators or by agreement between the British Government and Cochin.

5. This being so, I submit that the question has already been, over and over again, decided in favour of Cochin with regard to the greater part of the disputed tract, and to this extent it should not be re-opened.

6. The tract I allude to is the one marked P.A.O.K.N.V. in the accompanying sketch. In 1849 there arose a dispute between the Government servants of the Coimbatore district and Cochin about the latter's right to fell trees in Parambikulam. Communications passed through the British Resident about this matter and about several other real or pretended trespasses on either side until in 1852 the matter was referred to the Board of Revenue. The Board, after getting the Collector of Coimbatore to define the boundary as claimed by him, suggested in their Proceedings, dated the 24th January 1853, No. 39, that "the dispute be referred to the decision of a single individual in the confidence of both Governments. Captain Horsley appears to the Board a fit person for this duty. In the event of his being unable to determine * *that the whole of the disputed tract belongs to either party*, he might be empowered to fix on a new boundary, *assigning a portion to each.*"

7. The boundary, as defined by the Collector, extended along the dotted line running with the Noycoona (or Noycund) range to Cholayaur at a spot, called Oracomban, and then along the east bank of Vetycoly and Noycoond Poyas (or rivers). This includes the whole of the tract P.A.O.K.N.V., for, although it might, at first, be doubted whether what is here called the Noycoond river is not the river marked in the sketch as Parampikulam, the fact that Parampikulam and Pillaycaul were among the places then in dispute, † and the words "along the *east* bank of the Vetycoly and Noycoond Poyas," show that the Collector must have meant the Nelliyampolay river by Noycoond Poya. Vetycoly is identified with river O.A. in Ward and Connor's map, sheet No. 62.

* The italics in this and the subsequent quotations do not exist in the originals but were introduced by me to invite special attention to words so marked.

† That Parampikulam was then in dispute between Cochin and Coimbatore is admitted by Mr. Dance in his report, paragraph 15. That Pillaycaul was included in Coimbatore's claim will appear from the Dewan's letter to the Resident, No. 328, dated 4th August 1849, complaining of the Principal Collector of Coimbatore having stationed [illegible] 15 peons, armed and having badges, at that place, and the Resident's reply, dated 10th August 1849, in which he says:— "In reply to your letter No. 328 of the 4th instant, I would observe that I think the Company's servants may fairly claim the southern slope of the range of hills you refer to. I consider the boundary line to run along their crest and, at all events, their mere location there can be of no detriment."



8. The above suggestion of the Board was approved of by the Government, and in paragraph 6 of their Minutes of Consultation, dated 4th March 1853, they said: "It must be clearly understood that the award given by Mr. Horsley, whatever it may be, is to be final." Accordingly, after the consent of Cochin was obtained, Mr. Horsley was appointed. He gave it as his opinion that "the boundary between Cochin and Coimbatore is correctly represented in the printed map of Ward and Connor, by the dotted line coloured blue on one side, and red on the other, and *that all the country to the west of that line belongs to Cochin.*" The Board concurred in this view and the Government, in confirming Ward and Connor's line, said: "It is remarked that in his letter of the 25th August 1852, paragraph 2, the Collector of Coimbatore has suggested that, *if the title to the tract in question be ceded to the Cochin State*, it may be rented from them on the same terms as his forests have been rented from the Kolangód Nambidi. The Governor in Council desires that *the Collector will* place himself in communication with the Resident and *ascertain whether the Sirkar would be disposed to lease this forest* on such conditions" (Minutes of Consultation, No. 225, dated 6th June 1854).

9. I submit that it is abundantly clear from the above passages that it was the dispute between the two Governments about the whole of the tract marked P.A.O.K.N.V. that was referred to arbitration, and that what was decided was not simply, as asserted by Mr. Douglas, that Ward and Connor's line was the boundary between Coimbatore and Cochin, but that the whole of the above forest belonged to Cochin and not to the British Government.

10. The British Resident must have understood the decision in this sense, for, in forwarding a copy of this award to the Dewan, he speaks of it as "deciding in favour of the claims of the Sirkar *to the tract of forest land in the vicinity of Anamalashery, hitherto disputed by the Collector of Coimbatore*" (see Resident's letter No. 1076, dated 17th June 1854).

11. The argument advanced by the Nambidi and supported by Mr. Dance in paragraph 11 of his report that the Nambidi "does not wish to interfere with the boundary then laid down by the Government. He claims in the present case a boundary running to the west of that line, which latter, as far as the Nambidi's claim is concerned, will still be the frontier between the two States," is thoroughly unsound and misleading. It is true that the boundary line then laid down is not now disputed, but it is equally true that what is now sought to be done is to deprive Cochin of by far the greater part of what was once claimed by the British Government and after mature deliberation awarded by that Government itself to Cochin.

12. Mr. Dance says in the same paragraph that on the Nambidi's petitioning the Revenue Board on the 7th September 1854 against the above decision, the Board passed an order to the effect that "if he had any claim to prefer to any portion of *the forest land awarded to the Cochin territory (by the above G.O.)* he should advance it through the Collector of Malabar." I do not see how the words italicised in the above quoted passage could have been considered as consistent with the argument suggested in the earlier part of the same paragraph. It seems to me that these words show that some forest land was awarded to Cochin; and what that land was must be ascertained with reference to the claims put forward by either party. Where the award is in general terms, as in this case, it refers to the whole of the claim (in this case P.A.O.K.N.V.) and not to any unspecified part of it. Mr. Dance seems to think that this order implies a sort of promise that the Nambidi's claims to the above tract would be considered afterwards. But I submit that the order was only meant to inform him that if he had any grievance to represent to the Board, he should do so through the proper channel.

13. The decision of 1854 was admittedly reaffirmed in 1856, and the local officers who tried to reopen it were censured.

14. Mr. Douglas, whose office-note is now relied on by the Board of Revenue, has admitted that the tract south of Ward and Connor's line from Vengoli to Polalancotty or Pulliancooty belongs to Cochin. For, on the 1st November 1871, Mr. Douglas, then Acting Deputy Conservator of Forests, Anamalai, &c., ranges,

wrote thus to the Acting Deputy Superintendent, No. I Party, New Survey, Coimbatore: "From Vengoli to Pillaicul the boundary is unmistakable . . . . I agree, however, with Mr. Stevenson in thinking that the line is intended to run along the ridge *so as to give our side, that is, the north, to the Nambidi, and the southern slope to Cochin*" (paragraph 3). Again in paragraph 15 he wrote: "*The southern line between the leased forest and Cochin* runs from Vengoli to Pulliancooty, the junction between the Nelliampulay and Thoonacadavu rivers." Mr. Douglas now says that in so writing he was only referring to the southern boundary of the forest leased to Government by the Nambidi. The telegram received by the Dewan from the Resident on the 6th September 1871, asking the Dewan to send an officer to meet and co-operate with Mr. Douglas, says: "Coimbatore Collector telegraphs that Government has ordered survey of the Nambidi's teak forest." There is nothing said here about the survey intended being only of the leased part of the Nambidi's forest. But be this as it may, the fact remains that *the line from Vengoli to Pulliancooty was recognised by him (Mr. Douglas) as the northern boundary of Cochin.* As no copy of the lease has been filed in the records of this case, I am unable to say whether the lease purported to include the whole of the Nambidi's forest in this quarter or only a portion of it. But if it included the whole, Mr. Douglas' opinion above given will be strong evidence in favour of Cochin, and if it included only the tract north of the line from Vengoli to Palliancooty and east of the line from Palliancooty to Manhacooty, then the very omission from this lease of the tract included in the lease of 1849 and in the award of 1854 will go to show how the officer who took this renewed lease understood the Government Order of 1854. Speaking about the river between Palliancooty and Manhacooty, Mr. Douglas wrote: "If the Nambidi has any claims west of the river, the British Government has nothing to do with them so far as an interest in the lease is concerned; for, according to the lease, the line follows the river between the two junctions (Pulliancooty and Manhacooty) above mentioned" (paragraph 16). Mr. Douglas' omission to make a similar remark about the Nambidi's claims to the lands south and west of the line from Vengoli to Pilliancooty is a matter worthy of note. The entry "claimed by Cochin and Malabar" in the map published in 1875 will not show that Mr. Douglas' opinion about the tract, previously expressed, was wrong, but only that Malabar had then begun to claim the land.

15. Mr. Dance alludes to the words "land south-west of Vengoli peak claimed by both Malabar and Cochin" in the Board's Proceedings, No. 2699, dated 21st September 1874, as showing that Messrs. Douglas and Stevenson's visit to the place did not in the Board's opinion put an end to the dispute. I have not been able to find a copy of these Proceedings, but I may say that whatever was then said by the Board to this effect cannot have any force after their subsequent Proceedings of the 11th April 1876 hereafter considered.

16. The award of 1854 was reiterated in very strong terms in 1876 under the following circumstances:—Mr. Douglas in his letter of the 16th January 1876, No. 1, to the Coimbatore Collector urged that, inasmuch as there were three claimants—Coimbatore, Malabar and Cochin—to the tract marked P.A.O. K. N. V., and the order of 1854 disposed of only the question between Coimbatore and Cochin, the dispute between Cochin and Malabar still remained to be decided, and, as Ward and Connor's map, on the strength of which the G.O. of 1854 was passed was inaccurate, the claims of Coimbatore might also be reconsidered in deciding the Cochin and Malabar claims. The letter purports to have been written "with the view of reviving the claims of Coimbatore to a magnificent stretch of forest assigned to the Cochin Sirkar in 1854." When this letter was referred to the Revenue Board, they said in their Proceedings, dated the 11th April 1876, No. 938: "Whatever may have been the rights of the case originally, Government deliberately and decidedly in 1854 directed a boundary to be accepted which *indisputably gave to Cochin a valuable forest tract*, the *British claims* to which the local officers now wish to see revived. *Rightly or wrongly*, the Cochin Sirkar claimed the tract before the *Government decided the dispute in favour of Cochin by waiving adverse claims . . . The award of Government in 1854 cannot now be revived* without the assumption of a position which it is undesirable Government should



take, viz., that of a powerful and interested party reopening a *dispute long ago closed.*"

17. Thus, with the full knowledge that Malabar also claimed the forest, the Board decided that the award of 1854 was final and the British claims to the tract could not be revived. The Government approved of these Proceedings in their order of 30th May 1876.

18. Mr. Douglas in his office-note, dated Madras, 15th September 1888, refers to paragraphs 23, 24, and 25 of his letter above cited and to paragraphs 6 and 7 of the above-quoted Proceedings of the Revenue Board as showing that the G.O. of 1854 "merely effected a settlement between Cochin and Coimbatore." I see nothing in paragraphs 23, 24 and 25 that calls for any remark. The Board in paragraph 6 of their Proceedings say: "It seems unnecessary to go into the question of the Collangode Nampidy's claims here. They can be settled on their merits in communication with the Sirkar when the boundary westward from Vengoly peak comes to be demarcated"; . . . and in paragraph 7: they say ". . . the boundary from Vengoly peak westwards and northwards must also be definitely settled at some future period as circumstances admit." When taken along with the passages previously cited from the same Proceedings, and the fact that the only reference to the Nambidi's claims in all the correspondence then under consideration consisted in Mr. Douglas' assertion that "following the memoir further would lead into the forest leased from the Collangode Nampidi in Malabar a mile and more beyond," paragraphs 6 and 7 cannot be construed as leaving open for future settlement any part of the disputed tract about which the British claims were decided not to be revived.

19. Mr. Douglas then refers to the Board's Proceedings, dated 4th September 1876, No. 2265, as proving the same point. These Proceedings were passed under the following circumstances:—Mr. Douglas represented to his superior, the Collector of Coimbatore, that Dr. Tobin holding permits for that purpose both from the Cochin Government and the Kolangód Nambidi had shot two elephants from the tract described in his letter as "long in dispute between Coimbatore, Malabar and Cochin, concerning which orders were recently passed by Government in confirmation of a previous decision of long standing waiving all claims on behalf of Coimbatore." The Coimbatore Collector made over the case to the Collector of Malabar. The latter does not appear to have received any information on the matter from any other source, as he would have done if the lands were, or were claimed to be, within his jurisdiction. He, however, wrote to the Revenue Board asking that the boundary question between Malabar and Cochin be settled soon and till then all officers of Government be forbidden to shoot elephants in the disputed tract. The Board simply said: "It is very desirable that the *boundary between Malabar and Cochin* should be definitely settled . . . . The Board think that an effort should be made to settle *the boundary of this disputed tract* at least, if possible, after the Coimbatore line is settled. The Board do not see how the shooting of elephants within the tract in question can well be forbidden *as it would be difficult to define the locality* and *it may eventually be assigned to Cochin.* It seems to me that the Board used the words "*boundary of*" before the words "the disputed tract" advisedly so as to show that the Board doubted whether the place where the elephants were shot was within or without the tract previously awarded to Cochin, and that in saying that the Cochin-Malabar dispute should be settled they had no intention to suggest their readiness to reopen the award. The fact that these Proceedings were passed a few months after those quoted in paragraph 16 and that no reference is made to them by the Board, shows that this must have been the Board's meaning.

20. Mr. Douglas next cites the Proceedings of Government, dated 7th October 1876, No. 1442, and paragraph 4 of the Resident's letter of the 23rd September 1876, No. 75, therein embodied. I find from these that the Resident, backing up Mr. Douglas' opinion as expressed in his letter of the 16th February 1876, recommended that in deciding the Coimbatore and Cochin boundary between Vengoli and Shekkalacoond, the Nambidi's claims be also decided in communication with an officer to be deputed by Malabar; urging, as a reason, that the Nambidi claimed

the tract to the east of the line between those two places and therefore the determination of that line alone will be of no practical use to Cochin. The Government sanctioned this proposal remarking, "this seems indispensable for the correct determination of the boundary line between Vengoli peak and Shekkalacoond." On these documents I would remark that the fact of the Nambidi claiming lands already awarded to Cochin does not appear to have been contemplated by the Government in passing that order, but only the fact that the Nambidi claimed—which he does not now do—the land immediately bordering on the Vengoli-Shakkalacoond line—the line which alone had then to be settled.

21. Having thus separately dealt with the three Proceedings specially mentioned in paragraph 7 of Mr. Douglas' office-note, and shown that there is nothing in them to detract from the conclusiveness or finality of the award of 1854 as between the British Government and Cochin, I shall now, for the purpose of showing that the Nambidi's claims should not be gone into at present, call attention to the order of the Government, No. 509, dated 15th May 1882, approving of the Board's Resolution No. 1099, dated the 22nd April 1882. It will also be evident that this order cancels the Proceedings last cited by Mr. Douglas and considered by me in the preceding paragraph.

22. The Board's Resolution is in the following words:—

"Para. 3. The Board agree with the Collector that it is not desirable to attempt on this occasion the settlement of any claims that may be advanced by the Nambidy of Collangode. *For the reasons given by Mr. Stuart*, they would confine the proceedings to the determination of the boundary between Coimbatore and Cochin. *Any inquiry regarding the Collangode claim* should be postponed and *conducted independently*, as seems to have been contemplated (G.O., dated 12th August 1881, No. 1180).

23. Mr. Stuart's (Acting Collector of Coimbatore) letter here referred to runs thus:—

"Para. 5. The following matter also referred to in paragraph 1 of the letter from the Conservator of Forests appears to need the orders of Government. Proceedings of the Madras Government, Revenue Department, No. 1442, dated 7th October 1876, contain a letter from Mr. MacGregor, the late Resident of Travancore, describing claims made by the Collangode Nambidy, a proprietor in Malabar district, to lands which, if his, would be bounded by the boundary now to be settled. The Conservator recommends that these claims be considered and settled at the same time; but I cannot agree for the following reasons:—

"Para. 6. Cochin is in possession of the area claimed * and the Nambidy has nothing for it but to sue for the land in the Cochin courts, *unless indeed* the Government sees fit to take his place and part and to contest the matter with Cochin as a boundary dispute between Malabar and Cochin. In that case an officer from Malabar ought, I think, to be present, advised if necessary by the Nambidy and his people, but having the entire control on behalf of Malabar of the settlement of the boundary as between Malabar, Cochin and Coimbatore, leaving it to the Nambidy hereafter to sue for whatever land he claims in the Courts of Cochin, Malabar or Coimbatore according to whichever of these districts the lands he claims may fall at the close of this settlement.

"Para. 7. The recognition of the Nambidy on his own account as an actor in the settlement of the boundary would in any case, I believe, lead to complications . . ."

"Para. 8. Either on the Coimbatore side or the Malabar side the Nambidy's claims can courts, and, as said above, *Cochin being in possession of what else he claims we cannot help him as regards what eventually falls within the Cochin boundary with regard to which he will, I think, have to apply to the Cochin Sirkar or their courts.*"

24. Thus it was settled that the Nambidi's claims should be considered independently of the disputes between the two Governments; and, in pursuance of this decision, the Vengoli-Shakkalacoond line was demarcated without a consideration of the Nambidi's claims.

* The area claimed is described by Mr. MacGregor in paragraph 4 of his letter. He says: "The Nambidi claims, besides other land, all the tract of land bounded on the north by the line from Vengoli to Polalencooty, on the east by the line from Vengoli to Shakkalacoond; on the south by the Palakadavu river and on the west by Nelliampoya." The sketch (copy herewith sent) affixed by him to the letter shows that the tract specified is P.A.M.E.V., Palacadavu and Parambikulam rivers being the same. It also shows that "by other land" Mr. MacGregor meant all the land bounded on the north by the Parampikulam river, on the west by the Vetycoly river, on the south by Sholayar and on the east by the line between Chorykull and Shakkalacoond.
Thus the whole of the tract now in dispute excepting what lies to the north of the line P.A.O. is included in what Mr. Stuart describes as being in possession of Cochin.



25. Having thus shown that the Collector of Malabar on behalf of the British Government is precluded from reopening the dispute as regards the tract marked P.A.O.K.N.V., and also that the Nambidi's claims to any part of the disputed tract ought not to be gone into now, I would remark that the tract south of P.A.O.K.N.V. being entirely separated by it from Malabar is also presumably not a part of Malabar, and that only the dispute about the tract to the north remains to be decided on the evidence.

26. However, I shall deal with the evidence in this case as regards the whole of the disputed tract both as regards Malabar and as regards the Nambidi. Malabar does not appear to have advanced any claim whatever to any portion of the tract now in dispute until about 1874. If she had preferred any claim, it would have been brought to the notice of Cochin through the British Resident. The absence of such notice proves this fact. That Malabar laid no such claim till 1853 is further shown by paragraphs 2, 3 and 4 of Extract from Minutes of Consultation, No. 104, dated 4th March 1853, in which the Governor in Council says: "The places in which the Cochin frontier is disputed will thus be reduced to two, one on the Malabar and one on the Coimbatore border. That on the side of Malabar relates to a small strip of land near Warrankencherry, &c." Considering that the dispute on the Coimbatore border thereafter specified was the very one referred to in Mr. Horsley's arbitration by this very minute and decided in favour of Cochin in 1854, this is very strong evidence against Malabar. Mr. Knox having issued warrants in 1855 against the Cochin subjects, said to have trespassed on Parampikulam and Kuthuparamba, can prove nothing, because unless the magistrate happens to know that the alleged place of offence is not within his jurisdiction, he will issue the warrant as a matter of course.

27. The facts that Malabar put in no claim to the now disputed tract before the Commissioners appointed to decide the Cochin, Malabar and Coimbatore boundary in 1815; that she said nothing when Ward and Connor's map was being prepared in 1823 though she had due notice given to her; that she remained silent even after the map was published according to the Act of Parliament in August 1840; that Coimbatore and not Malabar was claiming to be in possession till the decision of 1854; that it was Mr. Douglas, a Coimbatore officer, and not any officer of Malabar that in 1873 or 1874 objected to the removal of teak logs cut by the Cochin Forest Department many years previously and detained the timber;* that it was Mr. Douglas again that, after the Coimbatore claims to the tract had been disallowed, brought the elephant-shooting case to the notice of the Collector of Malabar through the Collector of Coimbatore; that the Collector of Malabar and Mr. Dance have not been able to refer to a single instance (except the one already explained by me) in which Malabar claimed any part of the tract in dispute; all these show that Malabar has no rightful claim to the land. The Collector of Malabar is even now unable to point out the boundaries of the tract he claims; if otherwise he would not have allowed the Nambidi to first include and then exclude the Cochin coffee estates in and from the Malabar claims.

28. I shall now refer to the occasions on which the Nambidi claimed the lands. In his grandhavari and in some of the leases executed by him, he seems to have so stated the boundaries of his lands as to include some indefinite part of the disputed tract. Of this I shall speak later on. But besides this he does not appear to have laid any claim to the lands except by complaining of the Cochin trespasses. Mr. Dance does not give a list of such complaints in his report, but in the copy furnished to me of his sketch map, I find some places marked as having been trespassed upon by Cochin in 1840, 1841, 1846, 1854, 1858, 1870, 1873 and 1880. Of all these places, only three, namely, Kuthuparamba and Parampikulam, said to have been trespassed upon in 1854 and 1858, and Kámankulam alleged to have been trespassed upon in 1873, are within the disputed tract; so that all the other complaints do not show anything in favour of the Nambidi. As regards the complaints of 1854 and 1858 they can be no evidence against Cochin, because no

* See Mr. Douglas' letter of the 20th July 1876, No. 110, to the Head Assistant Magistrate of Coimbatore, cited in Proceedings of the Madras Government, Revenue Department, dated 20th September 1876.

notice of these complaints was given to this Sirkar. Moreover, these complaints were admittedly made only after the decision of the Government in 1854. If the Nambidi had any *bonâ fide* claims, why did he not advance them before the Commissioners in 1815? Why did he say nothing about them when Ward and Connor were preparing their map in 1823? Why did he remain quiet when the Coimbatore authorities were disputing the tract with Cochin? His quiescence till this decision and then from 1859 to 1872 is inexplicable.

29. Mr. Dance speaks of Cochin having only spasmodically felled trees in the disputed tracts and of the Nambidi having invariably complained of such action on the part of Cochin, whenever he came to know of it. I have just shown that the Nambidi complained only in 1854, 1858 and 1873. But, as shown by the accounts, exhibit A, Cochin felled trees in this tract in many other years also, viz., in 1839, 1841, 1842, 1844, 1845, 1846, 1847, 1849, 1851, 1852, 1853, 1856, and 1874. The lessees of Cochin did the same thing in 1855, 1861 and 1862. Mr. Dance seems to have omitted all the years between 1839 and 1855, because he looked only to the years in which trees were cut from Parampikulam or Kuthuparamba. But Manhacooty * from which Cochin felled trees in 1839, 1844, 1846, 1847, 1852 and 1853, Pillaycul from which she felled trees in 1845, Palalenkunnu or Polalcanmudy from which she felled trees in 1851 are places within the disputed tract and are marked on the printed map. She also felled trees from Attuwacherykunnu in 1841, 1842, 1845, 1846, 1847, 1852 and 1853, from Pulipidichapara in 1849 and 1852; from Thellikel in 1851 and 1852, &c. These places are given by the Cochin Commissioner in his sketch map as within the disputed tract and though they are not marked in the survey map I believe there will be no question about their whereabouts. As regards Thellikel, I may also observe that it must presumably be near the Thellikel river which is identified by Mr. Douglas in his letter of the 1st November 1871 with the Nelliampolay or Nelliampathy river. I might mention here that the accounts show that trees were felled more than once from the same places in the same year; that logs were removed by Cochin in other years also and that account, exhibit D, shows that Cochin removed other forest produce in several years. Thus it is not at rare intervals that the Sirkar exercised acts of ownership over the disputed tract and it is a mistake to say that the Nambidi complained whenever she did so.

30. The fact that the trespasses complained of were mostly on places lying close to the boundary as claimed by Cochin and that, if the Nambidi's claims were true, Cochin could not have obtained access to the rest of the places except through a large tract of British territory, also goes to prove the truth of the Cochin claim.

31. The Resident's letter cited in the footnote to paragraph 7 shows that in 1849 Cochin was in possession of the southern side of the range at Pillaycaul, and Mr. Stuart's letter of 1882 cited in paragraph 23 shows that Cochin was then in possession of all the disputed tract except what lies to the north of the line. P.A.O.

32. Cochin having thus proved her possession, she is entitled to retain it, especially in the absence of any reliable evidence of title in any other.

33. The leases given by the Nambidi, as they are unsupported by any evidence of consequent possession, are of no greater force as evidence than the grandhavari; and the Revenue Board admit that the mere entry of the boundaries in the leases proves nothing. But as Mr. Dance has written at some length on this matter, I think it well to briefly reply to his arguments. The two leases he considers important are those to Mr. Gardner and to Mr. Robinson. He argues that as the former gentleman had been Sub-Conservator of Forests under the Government and as such had worked the Kolangód forests which were included in the conservancy of 1806 to 1823, he would not have taken a lease from the Nambidi of Cochin territory. But this argument loses its force when it is considered that the lease included a sufficient extent of the Nambidi's forests to answer all the requirements of Mr. Gardner; that the tract belonging to Cochin is not separately

* I understand that the term Manhacooty is applied to the tract which lies on both sides of Ward and Connor's line.



spoken of in the lease, and that Mr. Gardner felled trees under the lease which were claimed and attached by the Coimbatore authorities. If Mr. Gardner could fell trees belonging to Coimbatore notwithstanding all his special knowledge about the forest, there is no improbability in his taking a lease which included tracts belonging to Cochin. As regards the Nambidi's giving the grandhavari boundaries in his plaint against Mr. Gardner, that is only a matter of course, as the suit was based on the lease which again was based on the grandhavari.

34. As regards the lease to Mr. Robinson, and the accounts prepared by the Temalpuram tahsildar, I should say the former was based on the grandhavari, and the latter must have taken the boundaries in the lease as correct; so also the fact of the Nambidi giving the same boundaries in the surety bond carries little weight, because there is nothing to show that any proper inquiries were made by anybody before the bond was accepted.

35. Then as to the comparative credibility of the Nambidi's grandhavari and Ward and Connor's map, I cannot say whether the grandhavari as now produced is throughout the same as was in the possession of the Conservancy officers from 1806 to 1823. Assuming it to be so, it has got the merit of greater antiquity, but then it is a document prepared by the Nambidi or his people without the knowledge of the Cochin or the British Government, and though it was in the possession of the British officers for many years (1806 to 1823), they do not appear to have verified its statements at any time during this period. The survey map, on the other hand, was prepared by competent men by order of the British Government and after intimation given to the Malabar and Cochin authorities. If the grandhavari has been referred to with great respect in Mr. Silver's memorandum of 1842 on a disputed boundary between Malabar and Coimbatore, it cannot, nevertheless, have been thought worthy to be acted upon; for the Collector of Malabar must have known from the grandhavari that the tract in dispute in the years 1849 to 1854 was within his jurisdiction, and the Collector of Coimbatore must have known that it was not within his jurisdiction, so that the former and not the latter would then have been the person to contest the claims of Cochin to that tract in those years. If Messrs. Robinson and Walhouse accepted the grandhavari as correct in 1850, as between the Nambidi and Coimbatore, Ward and Connor's map has been accepted as correct as between the British Government and Travancore and the Nambidi and as between the Nambidi and Cochin. The Revenue Board in their Proceedings, dated the 23rd January 1853, No. 39, say "the general accuracy of this map has been established and referred to in the boundary disputes with the Kolangód Nambidi as between Tinnevelly and Travancore." Mr. MacGregor, Collector of Malabar, in his letter to the British Resident, dated 23rd June 1873, says, with reference to the line between Vengoli and Kattaparathode: "I consider that no good cause has been shown by the Kolangód Nambidi for departing from the line shown in the survey map."

36. Mr. Galton, the Acting Collector of Malabar, in his letter to the Board of Revenue, dated the 7th November 1883, No. 4529, says: "Ward and Connor's line has been taken as the basis of settlement in determining the boundary throughout between British territory and the States of Cochin and Travancore."

37. Ward and Connor's line is, moreover, more in accordance with natural boundaries than the Nambidi's line, which on two sides not only follows no natural boundary, but is even now left uncertain.

38. It is alleged that Cochin herself disputed the correctness of Ward and Connor's map in several instances; but Mr. Dance has specified only three, viz., the dispute with Polakalatam, with Kannampara Nair and with Nellikel Etam. The existence of the dispute last referred to is shown by the map itself (see map No. 6), and therefore that claim is not inconsistent with the map. The other two disputes had been referred to Commissioners and they had given an opinion in favour of Cochin, before Ward and Connor's map was prepared (see Mr. Vaughan's [illegible] dated 26th April 1816); so that although the Government order on the Commissioners' report was passed only after the map was prepared, it cannot well be said that Cochin in these cases either disputed the map. The following passage