

## **THE SIKKIMESE THEORY OF LAND-HOLDING AND THE DARJEELING GRANT**

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Many legal and lay opinions have been expressed on the subject of the grant of Darjeeling by the Sikkim King to the East India Company. The questionableness of the transaction has been remarked on many grounds but none of the opinions have taken cognizance of the Sikkimese theory of land-holding.

The British, both the East India Company's Government and the Crown Government, while negotiating with the Sikkim Government mentioned only their interest in using the land of Darjeeling as a health resort and sanatorium of Europeans. Even in intramural letters the British chiefly emphasized the benefits that the climate there would bestow on members of the European race residing in the Indian lowlands. Only later and secondly did the British conjecture even between themselves of other advantages that would accrue from their residency in Darjeeling. The Sikkimese on their part spoke to the British only of giving Darjeeling for its use as a health resort. In the conversations between the Sikkim King and the British and in the deeds to Darjeeling only the use of Darjeeling is offered. The British themselves remarked on the ambiguity of the deeds and transactions vis-a-vis Darjeeling. But the deeds and the intent of the Sikkim King are not ambiguous when they are examined in the light of the Sikkimese land-holding law, which maintains that all land belongs to the King, and only usufructage, not outright ownership, devolves on the residents of the land. It was customary in Sikkim for the King to give land for its use. Would it not be probable then that the Sikkimese gift of Darjeeling was given in the traditional context of a grant for usufructage only; ultimate jurisdiction, authority and the right to resume the land being implicitly retained. As this sentiment of land-holding was all pervasive in Sikkim and indeed in most Tibeto-Burman culture areas there would have been no necessity in Sikkimese reasoning to stipulate the limitations of the gift. By presenting the positive reasons for which Darjeeling was being gifted, the conditionality of the gift was understood by the Sikkimese to be without question. They had no previous experiences involving land ownership with others than of their own culture group and had no reason to realize that the British would not know the Sikkimese land

laws, and could and would not understand the unwritten limitations of the gift.

Traditionally the land in Sikkim belongs to the King. All the farmer's land in Sikkim was held from the King. Edgar wrote in the last century „The cultivators have no title to the soil and man may settle down and cultivate any land he may find unoccupied without going through any formality whatever, and when once he has occupied the land no one but the Rajah can turn him out. But the Rajah can eject him at any time and if he should cease to occupy the land he would not retain any lien upon it. ... There is a kind of tenant-right however, under which cultivators are enabled to dispose of unexhausted improvements. Thus as it was explained to me, a man who has terraced a piece of hillside could not sell the land but is allowed to sell the right of using the terraces. This custom is acknowledged not to be absolutely a right, but more of the nature of an indulgence on the part of the Rajah, by whom it was allowed to grow up for the sake of convenience.“ Also there were Kazis and headmen and various other officials who exercised jurisdiction over specific tracts of lands. The Kazis and officials enjoyed some authority but the final authority was the King in all matters of import; for example major legal disputes that might arise on the territory held by an official would be referred to the King. Aside from exercising some authority, judicating minor disputes, and referring to the Ruler things of moment, the official also assessed the revenue payable by all the peoples settled on the lands within his jurisdiction; paid over to the Ruler a certain fixed contribution and kept the greater portion for himself. The Kazis had no proprietary right in the lands although they did have a kind of hereditary title to their office.

The land was not assessed and paid no revenue. The assessment was on the payer of revenue personally, and in theory he was permitted the use of the King's land so that he could prosper and be able to give to the King services which he was bound to do as the King's „live chattel“. If the system had been extended to theoretical perfection he would have been obliged to have given over to the King all the produce of the land. Actually the subject was only obliged to give a small share of his labour, or the result of his labour to the State. When he did no actual service the amount of his property was roughly assessed, and his contribution to the State was fixed accordingly. But such assessment was made without reference to the amount of land occupied by the subject. The value of his wives, children, cattle, furniture, etc were

all accounted for but not the extent of his fields. The land under a person in Sikkim could be transferred by the King to another party. Dzongu was once given by the King to the Lasso Kazi but was later taken back and became part of the Queen's Private Estate. As such it was administered once by the Mali Kazi, and later by the Rhenock Kazi. Lachen and Lachung valleys were assigned to the Queen in the time of Superintendent Campbell's visit. Later they became under the Prime Minister, and still later under the Heir Apparent to the Throne. Today there have been sweeping reforms in land-holding in Sikkim, but even at the present day all land in Sikkim technically is held from the King.

The purpose of an interstatal transaction whether a contract or unilateral act, consists in the ascertainment of its meaning; i.e. the intention of the contracting party or parties concerned. The Ruler of Sikkim who met the British representative in 1835 to negotiate the grant of Darjeeling had been brought up in the facts and mystique of land-holding as practiced and known in his country. The granting of land for usage only was a fact of Sikkimese life. A review of the Sikkim-British exchanges in this context is interesting.

„Translation marked E“ ,That Health may be obtained by residing there, I from friendship make an offering of Darjeeling to the (Governor General) Sahib 1891, 19 Maugh

,True Translations'

- G. W. K. Lloyd Major

This was the first „deed“ of Darjeeling made by the Sikkim Ruler. Major Lloyd did not consider the deed to be clear enough, and prepared a new one to be approved by the Ruler. The new deed had a tone of capitulation, and also roughly defined the boundaries of Darjeeling but the deeded purpose and use for which Darjeeling was to be given was as precisely limited as in the Ruler's original Deed. Translation of the second, and accepted deed of grant making over Darjeeling to the East India Company. Dated 29th Maugh, Sambat 1891. A.D. 1st Feb. 1835. „The Governor General having expressed his desire for the possession of the hill of Darjeeling on account of its cool climate for the purpose of enabling the servants of his Government, suffering from sickness, to avail themselves of its advantages; I the Sikkimputti Raja, out of friendship to the said Governor General hereby present

Darjeeling of the East Indian Company that is all the lands south of the Great Rungeet river east of the Balasun, Kabail, and Little Rungeet rivers and west of the Rungon and Mahanadi rivers.

„Translated“

Seal of the Rajah  
prefixed to the  
Agreement.

Sd- Campbell,  
Superintendent of Darjeeling and in  
charge of political relations with Sikkim.

Sd/- A.A. Campbell  
Superintendent.

Major Lloyd reported to Fort William his initial discussions with the Ruler of Sikkim after his visit to Sikkim where he had met the Ruler in Council, and in private. Political Consultation, 6 April 1953, No.100. „Respecting Darjeeling I was told that it was a small matter and that the Rajah would give it to the Company from friendship and build houses there for the sick people who might resort there.“ Major Lloyd included in his report the translation of a paper delivered by the Ruler in Council. „It from friendship Dabgang from Ahma Dige North be given to me, then my Dewan will deliver to Major Lloyd the grant and agreement under my red seal of Darjeeling that he may erect houses there“.

Dabgang was never subsequently given to the Sikkim Ruler and provides an important point of argument that the Darjeeling transaction is illegal as the British did not fulfill the conditions required by the Sikkim Ruler in making the gift. This point has been written on before however, and this paper will not elaborate the different conditions that the East India Company and the British Crown pledged to fulfill and failed to comply with. The intent of this paper is to suggest that the grant of Darjeeling was inherently conditional aside from other conditions such as the Sikkimese request for Dabgang.

No.101 - Close of a letter from the Ruler of Sikkim. 29th lunar day of 12th month of Wood Horse year. (about 26 February 1834)

„But I beg your acceptance of ground for building a house at Darjeeling.“

Translated letter of the Sikkim Ruler dated Kartik Sambat 1896, November 1839. „Some years ago the Government of Calcutta

addressed me saying that the European servants of Government and others suffered much from the heat of the plains and asked me to give Darjeeling for sanatory purpose. With this requisition I complied.“

Political Consultation 12 February 1840 No.103 letter from Sikkim Ruler to the Governor General – „I received your Lordship’s letter and by the hands of Colonel Lloyd which greatly gratified me. You informed me that the malaria of the plains was prejudicial to Europeans and desired me as an act of friendship to allow houses to be built for them at Darjeeling, at the same stating that it was not the intention of Government to derive a cowrie of Revenue from the land. This was always the strain in which the subject was treated.“ In another letter to the Governor General of India, the Sikkim King continues this theme. The King acknowledges the receipt of a letter through Colonel Lloyd and expresses his satisfaction. But writes „In that letter you request that I will give up Darjeeling as a place of residence for gentlemen who fall sick for the benefit of the Air, that it was a place not likely to yield a cowree of revenue, and that he [i.e. the writer] had from his friendship to the Company before given a place at Darjeeling for the British Agent in the year 1890 [i.e. 1835] at the request of the Colonel Sahib.“

A drafted Proclamation was included in this letter to be signed by the Governor General. The Governor General sent it on to Superintendent Campbell to be „examined“. The Draft is a bit confusing as it initially presents the Sikkimese case and demands in the first person plural and from the writers orientation. From a grammatical stand point if from no other it would have been difficult for the Governor General of India to have signed. The gist and intent of the Proclamation drafted by the Sikkimese is however quite clear. „We before ceded to the Honorable Company Darjeeling to afford change of air to sick gentlemen, they and their servants will reside there in quiet and solely for the change of air (without claiming the exercise of authority). The gentlemen at Darjeeling are not to entertain any Gorkha Sepoys in their service or other than subject of the Raja. The Bhoues, servants, Bomchiris will not be allowed to create any disturbance.“

In about 1846 a deputation from the Ruler of Sikkim visited the Superintendent of Darjeeling with renewed complaints of unfulfilled promises of Major Lloyd. They requested that he would remove himself from Darjeeling and take the hill of Nagu instead, or keeping Darjeeling that he would surrender the slaves of the Ruler, and other of his subjects who came to Darjeeling. They intimated their desire to appoint Subahs

and Sirdars on behalf of the Ruler over all the Lepchas, Bhotias, Limboos, etc. who were at or may have been at Darjeeling. On the Superintendent's remonstrance they withdrew their demands and made a written apology. However after that occasion the demand was reiterated several times again. Much of the correspondence of the East India Company and the Crown Government with the Sikkim King and his Government was in a vein that could easily have borne out an underlying intent and belief of the Sikkim King that he had been asked to give, and had given Darjeeling for its usage only. A case in point is the British drafted deed of Darjeeling that stipulated only that the land was to be used as a health resort. Other correspondence is of the same ilk. In the political consultation 6 April 1853 No 100 addressed to the Secretary to Government Political Department, Fort William, Major Lloyd recounts what he had spoken to the Sikkim Ruler in his audience with the Ruler. „By saying I had received orders from the Governor General to request the Raja to cede Darjeeling to the British Government in exchange for land in the plains or for a sum of money, explaining at the same time that it was on account of the climate that Government wishes to have the place as a resort for sick persons who could not recover in the hot climate of the plains, instancing the necessity to us natives of a cold climate of cool place to resort to by their own custom of flying from the plains from fear of or when attacked by the Auwl.“

A letter from Fort William to the Ruler of Sikkim Political Consultation 11 February 1835 No. III reads „I am informed that the above-named place yields you no revenue nor it is any part of the object of the British Government to derive pecuniary profit from its possession. It is solely on account of the climate that the possession of the place is deemed desirable, the cold which is understood to prevail there being considered a peculiarly beneficial to the European constitution when debilitated by the heat of the plains.“ Another letter from Fort William Political Consultation 8 No 88 followed in February 1836 „Major Lloyd has informed me that out of friendship to the British Government you have made an unconditional grant of Darjeeling with a small tract about it for the purpose of being used as a sanatorium by the servants and subjects of the Company and the Major has forwarded to me the deed of the gift executed by you in the name of the Company. I am much obliged to you for this proof of your friendship and accept of the land in behalf of the Company for the purpose mentioned in the grant.“

A letter from Superintendent Campbell dated December 19/1839 Darjeeling ironically confirms that Darjeeling was given to the British

only for its use as a health resort but goes on to chastize the Ruler of Sikkim for seeking to maintain his authority and jurisdiction in the Darjeeling area. By this time the conflicting interpretations of the grant had become more rudely apparent. „It is true that you considerably ceded Darjeeling to my Government to enable its servants and others to avail themselves of the benefits of its healthy climate, this was duly appreciated by the Government as a proper mark to your gratitude and goodwill and I feel quite sure that I may be the means of procuring the sanction of Government of making you full compensation for your former revenue receipts from the Ryots of that territory. I do not however quite understand the part of your letter which says that in giving over Darjeeling you did not make over any of the Mech and Dimal population with the land. It is not usual to claim a proprietary right in human beings as it is in land, the latter may be transferred from one rule to another, no note is taken of the people in the transfer, but if they choose to remain on the land transferred they by so doing become the subjects of the person holding the land and all now comes after the transfer are alike the subjects of the New Ruler, so it was when the Governor General made over the choosing to you, and I consider and treat as British subjects all persons now residing on the Darjeeling territory as well as those who resided on it at the period of the transfer as those since located there, and I feel assured that a little consideration will satisfy you of the justice of the view of the case.“ This letter is particularly interesting because in it Campbell attempts to explain a British theory of land-holding. It is doubtful however that even European law would have supported his view that the grant of Darjeeling for its use as a sanatorium also gave the East India Company or Britain the rights to the population, the jurisdiction, the authority and the revenue raising in the territory. Several of Campbell’s superiors at the time doubted it. More important however, Campbell’s letter reveals how ignorant he was of the Sikkimese theory of land-holding or even of the existence of a Sikkimese theory of land-holding; a theory which we have seen at the beginning of this paper to be quite at variance with Campbell’s unilateral discourse on the subject.

Initially the different British personalities involved with Darjeeling stressed in their notes to each other that the cool climate of Darjeeling beneficial to health was the *raison d’être* for seeking to obtain the use of the territory. There is no reason to doubt their good faith as these papers were entirely intra-mural. The British did worry however that Sikkim and Nepal would doubt their good faith, and gave instructions

that their agents were to take particular pains to set both Sikkim and Nepal at rest on the reasons that led them to seek Darjeeling.

Political Consultation 17 October 1833 No. 1. „The reports of Captain Lloyd, Captain Herbert and Mr. Grant unanimously concurring in representing Darjeeling to be peculiarly qualified for a sanatorium for the lower provinces as originally suggested by Mr. Grant the commercial resident at Maldah it seems unnecessary to advance any other reason for carrying the measure into effect, than the great many of European life, and the consequent saving of expence, that will accrue health to the individuals and to the State.“

Mr. MacNaughten, Secretary to the Government of India on behalf of the Governor General of India in his letter to Major Lloyd dated 23-1-1835 ordered that „you will of course take particular pains to make the Raja understand that the superiority of the climate of Darjeeling and its consequent fitness for a sanatorium are the only reasons which induce us to wish for its possession.“ Sir Charles Metcalfe in the Political Consultation 17 October 1833, No. 2 disagreed strongly with the plan to obtain Darjeeling as a sanatorium put of deference to the complications that could arise if Sikkim and Nepal misunderstood British motivations, and imputed other reasons for Britain wanting Darjeeling. He added that even if the „Rajah’s consent can be purchased, the sore of our presence in his country will rankle hereafter.“ Metcalfe’s wording „in his country“ is interesting as it implies that he did not regard the imminent British acquisition of Darjeeling as a sanatorium to be an acquisition that would deny Sikkim’s sovereignty over the Darjeeling area. Nepal’s sentiments about a British presence in an area on their borders were also taken into account, and anxiety expressed that the Nepalese would not understand the real cause of Britain’s desire for Darjeeling.

Political Consultations 17 October 1833 No. 3. „Altho the whole course of our policy since the conclusion of the Goorkha war has been such as ought to satisfy the Government of Nepal that we are not actuated by any spirit of encroachment, it is probable that they would ascribe our occupation of Darjeeling to other than the real cause.“

Perhaps the strongest case for the sincerity of the British aims concerning Darjeeling is to be found in the day by day weather records kept by Assistant Surgeon H. Chapman and Major Lloyd during the months of December 1836, and January, February, March, April,



May, June, July, September, October and November 1837 (August was discretely left out the report). The purpose of the report was to prove to the Governor General and Court of Directors of the East India Company that Darjeeling did have a beneficial climate. At best it must have been trying for the two men to sit immutable on a ridge in Darjeeling day after day, sometimes in inclement weather, observing cloud cumuli. A typical daily report runs „May 20th 1837 Daybreak - generally overcast, light rain - falling usual S. and S.S.W. - 7 a.m. clearing. 10 a.m. calm and foggy - noon calm and fog - 4 p.m. overcast, light showers at intervals since noon - 5 p.m. a thunderstorm gone off to N. - 9 p.m. calm and cloudy - frequent showers during the day - weather pleasant.“ Such a heart-breaking report would not have been necessary if the British really had sought Darjeeling not as a health resort but only or chiefly as a strategic and profitable stronghold. Many papers passed hands on the difficulties and possibilities of creating a sanatorium in Darjeeling. The pervasive theme of all the papers was of the buildings to be erected for the use of the invalids expected to report there. One note contains the offer of the Sikkim Ruler to assist in this effort. No.103 to the Secretary to Government Political Department Fort William „With respect to houses the Raja, who has little idea what a European house is, offers to build house for the sick gentlemen, this I consider quite out of the question, but I think a range of comfortable barracks might be constructed, either of stone, or matwork at little expence ...“

Reflections on jurisdiction, authority etc. held no place in these papers. The bulk of the papers are accounts of the effort to fashion the rugged hill country of Darjeeling into a place suitable for convalescents; the purpose for which Darjeeling was originally sought. Several years later, when the British assumed more and more powers in the Darjeeling territory and clashes had grown in intensity between the Sikkimese and British authorities, the British had more cause to reflect on the wider aspects of the Darjeeling grant, and to wish that the grant was clear and definitive (and translated!).

After several demands by the Sikkim Government for control over the Bhutias and other tribes resident in the Darjeeling area, the British Government took occasion to remark: „that to avoid any unpleasant feeling on the part of the Sikkim Raja in future in matters of this nature His Lordship in Council would not be disinclined to the renewal, only however when a fitting opportunity may present itself of negotiations having for their object a complete surrender of every kind of claim of

jurisdiction and interference with all persons and property within the ceded tract, receiving in lieu a fixed annual payment and relying on the justice of the British Government for its punishing all criminals proving deserving of it.“

A following letter to Superintendent Campbell from the Secretary to the Government of India runs. „Doubtless it is the Rajah’s dissatisfaction arising from the several causes which have been explained, that has induced him to claim jurisdiction over native settlers at Darjeeling. There is no ground to believe that he intended to retain the jurisdiction when he made over the tract, but if the grant is found to contain anything opposes to this view of the case then some arrangement must be made with the Rajah in order to put an end to his claim. It was the wish of the Government that all differences should be settled by written agreement at the time the compensation was fixed, but this was not accomplished. You seem not to have understood the object of the instructions communicated to you in the letter from this office dated 1st March 1841, in replying to which you said ,it appeared to me unnecessary to ask the Rajah to enter into any specific engagements on this occasion’. The sort of assistance we require from him here is not such as can be readily defined or stipulated for such a favourable disposition as may prevent his using his influence with his subjects to deter them from resorting to Darjeeling is really all that can be essentially useful to us.“ This letter is interesting for several reasons. 1. It shows that Campbell could not quite understand the broader thinking of his superiors, and did not attempt to implement it; 2. That the British rather obsessively were keen on clearing up the case for all time; 3. That the British did want to see justice done in a sense. They presumed that the Ruler of Sikkim had intended to give away his jurisdiction over settlers in Darjeeling when he gave the grant. However they were anxious to conclude some new terms agreeable to the Rajah if they discovered the adverse. If the British then had taken cognizance of the Sikkim land-holding laws they would have had an insight that would have perhaps reversed their interpretation of the Sikkim Ruler’s intent when he gave the grant. The grant in question was at the time of this letter to Campbell still untranslated, and the British Government was earnestly trying to obtain a translation of this vital document.

The British for their own security wanted to clarify and settle the dispute about the extent of power that the grant of Darjeeling did or

did not transfer from Sikkim to the British Government. Also however there were men in the British Council in Calcutta who were anxious to the heart of the matter in order that justice for its own sake could be done. Mr. P. Melville, officiating Under Secretary of the Government of India, was one of these men. In 1846 he made an exhaustive review of the whole Darjeeling case in a long Memo. The Memo is quoted extensively below as it gives many insights into the history of the Darjeeling grant, and also it is splendid in revealing Melville's baffled but honorable attempt to take into account the psychology and sentiment of the Sikkimese as well as the legality of the Sikkimese case vis-a-vis jurisdiction in Darjeeling. The Memo is particularly remarkable in that it was written not as a detached point of view many years after, but in the very vortex of the dispute between Sikkim and the British Government.

„Here it is right to pause again and consider what the transaction really was which is called the unconditional transfer of Darjeeling. Did the Rajah when Major Lloyd met him show any disposition whatever to cede Darjeeling unconditionally? On the contrary he was earnest in making two requisitions and he made them the conditions of the grant. Major Lloyd fully understood this and accepted the grant conditionally.“ Here Melville refers to the Sikkim Ruler's demand for the extradition of some Sikkimese Landlords who owing a great deal of revenue money to the Sikkim Government had fled into British territory, and also for the Sikkim Ruler's demand for Debgang. Neither of these conditions was subsequently fulfilled. „Whatever the circumstances under which it was obtained, the deed of cession granted by the Rajah gives to the British Government a title to Darjeeling. But it is important to observe that this deed which is untranslated and its purport only generally known, is the sole title and as we have no other title to the place than this deed; so we can have no other rights in the place but what are expressly stated in the deed. It is only because we are so powerful and Sikkim so insignificant in comparison that this fact has been overlooked. Sikkim it is easily seen has no rights in the Morang, except what are expressly stated in the sunnad which the Rajah holds from the British Government. The Government it is equally certain has no rights in Darjeeling except what are expressed in the deed of cession. Lord W. Bentinck saw the importance of having a properly expressed grant. A grant which should in fact transfer Darjeeling to British authority and British laws. Is the paper in the Foreign Office such a grant or does it merely cede as a gift, (a

gift of certain tract for a certain purpose does not imply the transfer of Sovereign rights. Such rights can only be given by express stipulation) a certain roughly defined tract in the Sikkim territory. This ought to be ascertained because the Rajah has more than once declared to Dr. Campbell that when he ceded the land ,to build houses on' he did not at the same time give away his jurisdiction over the inhabitants.“ This declaration of the Sikkim Ruler is quite clear when read in the context of the Sikkimese view of land-holding. About Superintendent Campbell Melville wrote. „He seems from the first to have found fault with the Rajah and never to have considered how natural it was of the Rajah to be jealous of our position in his country - a most extraordinary and novel position acquired in a very questionable and unsatisfactory manner.“ Melville’s wording „jealous of our position in his country“ is interesting as it implies that he accepted Darjeeling as yet an integral part of the Kingdom of Sikkim.

The Memo continues at length to review a case presented by Superintendent Campbell of a refugee Dacoit, and to explore the broader jurisdictional aspects of the case. „That of a dacoit who committed an assault near Darjeeling and then fled to Sikkim territory where the Sikkim Rajah’s people prevented his being arrested is a violation of the Treaty with Sikkim if the territory from which the Dacoit fled is territory properly subject of the Regulations of Government. Whether it is so must depend on the terms in which the deed of cession is expressed.“ A footnote adds. „Still Vattel would perhaps have said had he been asked the question whether this was a breach of Treaty. That the provisions of the original treaty could not be considered to apply to lands which might subsequently be ceded by one party to the other. For that every such session should be made on separate stipulations. Thus if the Rajah of Sikkim were to refuse to deliver up criminals who had fled from Rangpore into the Morung lands this would not be a breach of the original Treaty with Sikkim; but of the stipulations of the Sunnad in which it is made incumbent on the Rajah to deliver up criminals and to allow the Police Officers of the British Government to persue into their lands and apprehend all such persons.

It is indeed pretty evident that the Rajah could defend himself against the charge of breach of Treaty (in the case referred to by Dr. Champbell) by an argument not easily answerable and which may be put as follows. The British Government charges the Rajah with a

violation of the 6th article of the Treaty in that he prevents the seizure of a Dacoit who has taken refuge in the Sikkim territory, but says the Rajah, I consider the Dacoit as my subject to be dealt with by me, the territory where the assault was committed being territory which by the 1st article of Treaty was given over to me and my heirs in full sovereignty. True replies the Government the territory was given over to you in full sovereignty, but you afterwards ceded a portion of it to us - and it was in this portion that the assault was committed. To which the Rajah might reply - you asked me for a spot in my territory to which your servants might resort for their health; I gave you such a spot, but in giving it, I did not yield up any sovereign rights to it - now as I promise these rights by treaty I still possess them unless you can show me that I have transferred them to you. To this there is no reply, except what may be afforded by the terms of the Rajah's grant." The Hon'ble Sir T.H. Maddock and the Hon'ble Mr. Millet agreed emphatically with the Memo.

Since the time that Melville wrote, the grant has been translated, and the terms of the grant are well known. Darjeeling was given for its particular usage as a health resort. In Sikkim where all land is believed to be held from the King and usage of the land is extended freely but on technical sufferance from the King, the gift of Darjeeling for a certain purpose without transferring the donor's right of authority and jurisdiction and sovereignty would be according to strictest Sikkimese tradition. In this context the limitations and conditionality inherent in the grant of Darjeeling would seem unquestionable.