M.R.O. 1—38,060—16-10-20.

MADRAS RECORD OFFICE.

Government of Madras.

political DEPARTMENT.

G.O. No. 14 Press ~~Mis.~~

Dated 6-1- 19[illegible]

Not to be folded or roughly handled

No. 9. From J. W. CHERRY, Esq., Acting Collector of Coimbatore; to W. H. BAYLEY, Esq., Acting Secretary to Government, Fort Saint George, dated 30th November 1858, No. 59.

SIR,

1. On a visit paid by me some months ago to the Talook Cutcherry at Coimbatore, I was surprized to find a great portion of it incommoded with a quantity of Tobacco stored therein, and was informed on enquiry that the Tobacco in question belongs to the Cochin State, and had so remained there for the last five years.

2. With a view to make myself acquainted as to how it came to be there, and why it was so left without being taken charge of by the Cochin Authorities, I referred to the records of this Office, and found that a voluminous correspondence had passed to and from Mr. Thomas and the Resident of Travancore and Cochin, in consequence of a dispute between the Collector of this District and the Dewan of Cochin, with respect to the right of ownership to a portion of the Tobacco Godowns here, and that no final settlement had been arrived at. I then wrote to General Cullen on the 22nd May 1858, stating that much inconvenience is felt by Tobacco being stored in the Talook Cutcherry, and that unless I heard from him within 25 days as to the disposal of the Tobacco it would be necessary for me to sell it in Public Auction and remit to him the proceeds, but no reply has hitherto been received; as I am not willing to do anything in the matter without the orders of Government, I am under the unavoidable necessity of bringing it to their notice, with a view to such orders being issued as may be deemed proper.

3. To give a clear idea of the case it would be necessary to submit copies of the correspondence *in extenso*, but such being contrary to the orders of Government conveyed in Extract Minutes of Consultation of the 3rd June 1858, Public Department, No. 668, I beg to leave to subjoin the history of the case deduced from the information I have been able to gather from the correspondence. I would however beg to be permitted to lay before Government copy of one letter* from Mr. Thomas to the Resident, an important one, which bears materially on the disputed point, and which affords full and satisfactory information.

* *Dated 6th February 1854, No. 2.*

4. When the Tobacco Monopoly was in force in this District, there were several ranges of Godowns construc[illegible] at the public cost for the stowage of the Tobacco purchased from the Ryots for supply[illegible]abar and the Native States of Travancore and Cochin, a portion of these Buildings was allowed to be occupied by the Agents of those two States at Coimbatore, for storing the Tobacco furnished to them by us for transmission to those provinces.

5. When the Monopoly was ordered to be abolished in 1852, Mr. Thomas proposed to put up to Auction the whole Buildings which were occupied as Tobacco Godowns with the sites belonging thereto, and reported the same to the Board of Revenue in his letter, dated 30th September 1853,† No. 74. Before selling the premises Mr. Thomas gave due Notice to the Agents of the two Native States of the intended Sale of the Godowns, and apprized them that they should apply to their Dewans for permission to purchase in Public Auction such portions of the Buildings as they may require, or remove their Tobacco to some other place within a given time. No attention appears to have been paid to this Notice by the Cochin Agent, but the one of Travancore seems to have made a report to his Dewan. The appointed time for the sale arrived, and the Buildings were sold in Public Auction. In the interim the Travancore Dewan brought forward a claim‡ to the Godown in which the Tobacco of that State was allowed to be stored, on the plea that a sum of Rupees 203 Quarters 2 and Reas 3 was paid by that State to the Honorable Company through the Cochin Government in the year 1820, towards the construction of the Building.

Vide Extract Minutes of Consultation, 2nd November 1852.

† *Para:* 19.

‡ *Dewan's letter, dated 12th November 1853, received with the Resident's letter, dated 14th November 1853.*

6. Mr. Thomas replied that the Buildings referred to, were the *bonâ fide* property of Government, that neither Travancore nor Cochin could claim any portion of them, and that the payment said to have been made in 1820, was merely for the use of the Buildings, and not as purchase money. This conclusion of Mr Thomas was based on the strength of a correspondence which had passed between this Office and the Assistant Resident of Cochin in the year 1820, to which the Dewan was referred, and on this explanation the latter Officer withdrew his objection

7. I think it necessary to mention here what have been the conditions and agreements entered into when the payment alluded to, was made. Mr. Whish, the then Acting Collector of this District, in his letter to the Assistant Resident of Cochin, dated 22nd July 1820, forwarding an Account Particular of charges incurred in constructing the Buildings which were allowed to be occupied by the Travancore and Cochin Tobacco, writes that "the Godowns are considered our's "in every point of view, and that their being made over to "the Agents of those Circars * from time to time rests "entirely with us as was the case before with regard to the "other Godowns." These conditions were fully acquiesced in by the Assistant Resident of Cochin, who, in his letter to Mr. Whish, dated 1st August 1820, states that "the Godowns are consider-"ed your's, but at the same time I understand that these two States are to be permitted the free "and full use of them under your sanction and authority."

* *Meaning Travancore and Cochin.*

8. After the sales of the Tobacco Godowns in general were concluded, came the Dewan of Cochin † with his claims, which he based on the following points, being nearly the same as those put forward by the Travancore Dewan.

† *Dewan's letters, dated 29th November* 1853.
" " " *21st December* 1858.
" " " *18th January* 1854.
" " " *19th* " "
All received with the Resident's communication of the 23rd January 1854.

1st. That the Buildings referred to, were paid for by Cochin, with some inconsiderable further sum for repair in 1824.

2ndly. That no conditions were entered into for vacating the premises, and that it was originally agreed upon that the two States are to be permitted the free and full use of them under the sanction of this Department, and,

3rdly. That the Buildings in question are called in an Account Particular furnished by Mr. Sullivan to be "Circar Tobacco Godown," meaning the Godowns of Travancore and Cochin.

9. Each of these points has been fully met in Mr. Thomas' letter to the Resident alluded to in the 3rd para: of this communication, and the following is an abstract thereof.

I. With regard to the 1st point, Mr. Thomas states that he has already explained to the Resident that the payment made by the Cochin Circar was merely for the use of the building, not as purchase money; that the conditions upon which the amount was paid and received, prove beyond a doubt that such was the case; that under these circumstances the claim of the Dewan "now sets up" cannot be recognized in that light in which it has been put forward; and that the payment, inconsiderable as it was, has already been repaid over and over again by long occupation.

II. Adverting to the 2nd point, Mr. Thomas refers the Resident to the correspondence passed between Mr. Whish and the Assistant Resident at Cochin, dated as per margin, and adds that if the payment made was considered as purchase money, as the Dewan "now attempts to prove," the precautionary conditions would have been quite unnecessary, and that the Dewan of Cochin must under the above explanation, be satisfied that the occupancy of the Buildings by Travancore and Cochin was *conditional*, and disabuse himself of the belief that there does not appear to be any condition for the vacating of the Godowns in question. He also states that the free use was "permitted so long as the Build-"ings were the property of Government," but that "they have been purchased by other parties, "and are now strictly private property and beyond his control."

Letter from Mr. Whish, dated 22nd July 1820.
From the Assistant Resident of Cochin, dated 1st August 1820.

‡ NOTE.—*In this letter Mr. Sullivan calls the Buildings as "Tobacco Godowns situated at "Coimbatore for the use of the Cochin and Travancore Governments."*

III. Regarding the 3rd point, Mr. Thomas remarks that the Account Particular alluded to by the Dewan, would in no way support his claim, and that the letter ‡ which accompanied that Account appears to have been overlooked.

10. In the interval the sales took place, and realized a sum of Rupees 15,800 which was credited to Government, the same was duly reported to the Board on the 23rd November 1853, by whom it was approved in Extract from their Proceedings, 12th December 1853.

11. The Travancore and Cochin Agents not having vacated the Godowns occupied by them, the purchasers clamorously demanded that the Agents should either pay rent for the Buildings in their use, or remove their Tobacco from them. The Travancore Agent made a fair arrangement with the purchasers to pay rent, but the Cochin Agent declined doing one or the other. The purchasers again complained to the Collector, who remonstrated with the Cochin

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Agents, but to no purpose, and he therefore, with the view of doing justice to the purchasers, was under the necessity of removing the Cochin Tobacco from the Godown to the Talook Cutcherry, and gave due intimation of the same to the Dewan of that State through the Resident.

Vide para: 9 of Mr. Thomas' letter, dated 6th February 1854, *No.* 2.

Meanwhile the Cochin Agent withdrew his responsibility in regard to the Tobacco. Then ensued a further correspondence re-iterating the same arguments on both sides as were put forward in previous letters, and Mr. Thomas, in his letter of the 14th February 1854, gave a month's time for the removal of the Tobacco from the Talook Cutcherry. This does not appear to have been attended to, several other letters were subsequently sent by him to the Resident on the subject, in one of which he enclosed a Bill for the pay of Peons employed in guarding and taking care of the Tobacco, and in another he requested General Cullen to refer the matter to Government, and stated that if they should so decide the amount said to have been paid by the Travancore and Cochin States, will be repaid to them, all these communications proved ineffectual. The call for the removal of the Tobacco from the Talook Cutcherry or permission to sell, was often repeated, but neither the one nor the other was attended to by the Resident.

Mr. Thomas' letter, dated 10th May 1856, *No.* 219.

For Construction,	*Rupees*	546-15-0
For Repair	"	345-9-0
		890-8-0

12. Matters were left at this stage when Mr. Thomas delivered over charge of this Collectorate to me, and my letter to the Resident, dated 22nd May 1858, equally failing to bring the matter to a conclusion, I am obliged to refer the matter to Government.

From the Dewan of Travancore to the Resident, dated 12th November 1853..	—	1
From the Dewan of Cochin to Resident, dated 18th January 1854.....		1
" " *19th January* 1854.....		1
" " *February* "		1
" " *March* "		1
" " *29th Novr.* 1853.....		1
" " *21st Decr.* "		1
	—	6
From the Resident to the Collector of Coimbatore, dated 14th November 1853.....		1
" " *23rd January* 1854.....		1
" " *11th February* "		1
" " *15th* " "		1
" " *6th January* 1855.....		1
" " *28th April* 1856.....		1
" " *18th December* "		1
	—	7
From the Collector of Coimbatore to the Resident of Travancore, dated 21st November 1853.....		1
" " *6th February* 1854.....		1
" " *14th* " "		1
" " *20th March* "		1
" " *6th July* "		1
" " *20th December* "		1
" " *17th July* 1855.....		1
" " *31st December* "		1
" " *31st March* 1856.....		1
" " *10th May* "		1
" " *9th December* "		1
" " *31st* " "		1
" " *14th January* 1858.....		1
" " *22nd May* "		1
	—	14
		28

13. The number of letters that have passed in the matter is 28, as marginally indicated, extending over a period of six years, and occupying 70 Pages with no result whatever. The Tobacco has been stored in the Talook Cutcherry at Coimbatore to the great inconvenience of the Servants therein employed. The Building is very old and dilapidated, and the necessity for its reconstruction has been urged on several occasions.

14. From what I learn from the correspondence on the records, I conceive the question of right of Ownership to the Godowns rests on two main points:—

1st. Whether the payment made was a purchase money, or merely for the use of the Buildings; and, 2ndly; whether the occupation of the Godown by Travancore and Cochin was clogged with any conditions and restrictions. These points are set at rest by Mr. Whish's

letter of the 22nd July 1820, and the Assistant Resident's reply, dated 1st August 1820. Consequently the claim laid by the Dewan of Cochin is as unsupported as it is unfair.

15. Under these circumstances, I respectfully request that Government will be good enough to issue such orders as they may think proper, for the removal of the Tobacco in question from the Talook Cutcherry at Coimbatore.

From E. B. THOMAS, Esq., Collector of Coimbatore; to Lieutenant General W. CULLEN, British Resident of Travancore and Cochin, dated 6th February 1854, No. 2.

SIR,

1. I have the honor to acknowledge the receipt of your letter of the 23rd Ultimo, No. 143, and its enclosures.

2. As far as I have been enabled to gather from the several communications of the Dewan of Cochin, copies of which you have been good enough to furnish, I find that he bases the claim of that State to a portion of the Godowns lately sold on the following points:—

1st. That the Buildings referred to were paid for by Cochin, with some inconsiderable further sum for repair in 1824.

2ndly. That no conditions were entered into for vacating the premises, and that it was originally agreed upon that the two States are to be permitted the free and full use of them under the sanction of this Department; and, 3rdly, that the Buildings in question are *called* in an Account Particular furnished by Mr. Sullivan to be "Sirkar Tobacco Godown," meaning the Godowns of Travancore and Cochin.

3. On the first point I have already* explained to you that the small payment made by the Cochin Sirkar was merely for the use of Building, not as purchase money, the conditions upon which the amount was paid and received, prove beyond a doubt that such was the case, and under these circumstances the claim of the Dewan now set up cannot be recognized in that light in which it has been put forward, this payment, inconsiderable as it was, has already been repaid over and over again by long occupation.

* *In letter, 21st November 1853.*

With reference to the 2nd point, the supposed absence of any condition to vacate the premises, I would again refer the Dewan to a communication which he himself quotes from the Assistant Resident and to the one to which it is a reply. Mr. Whish in his letter of the 22nd July 1820, distinctly states that the "Godowns are considered *ours in every point of view*, and that "their being made over to the Agents of those Sirkars (Travancore and Cochin) from time to time "rest entirely with us as was the case before with regard to the other Godowns," in other words that the Buildings referred to were the property of Government *in every respect*, and that the Native States had no claim to them other than for present use under the sanction of this Office. In this arrangement the Assistant Resident readily acquiesced, as will be seen from his letter of the 1st August 1820, wherein that Officer clearly expresses that the Godowns "*are yours*." If the payment made was considered as purchase money, as the Dewan now attempts to prove, the precautionary conditions pointed out above would have been quite unnecessary, and under this explanation the Dewan of Cochin must be satisfied that the occupancy of the Buildings by Travancore and Cochin was *conditional*, and disabuse himself of the belief that "there does not appear to be any condition for the vacating of the Godowns in question." Adverting to "*the free use*," it was, as you are aware of, permitted so long as the Buildings were the property of Government. They have been purchased by other parties and are now strictly private property and beyond my control.

In this letter Mr. Sullivan says the "Godowns situated at Coimbatore for the use of the Travancore and Cochin States,"

5. Regarding the entry in the Account Particular remarked upon by the Dewan, it would in no way support his claim, and I would also observe that the letter which accompanied that Account appears to have been overlooked.

6. Having thus disposed of the subject immediately connected with the claim of the Dewan, I now beg to advert to the allegations contained in his several communications to your address. In the first, he professes to have learnt the fact of the sale of the Godowns on the receipt of the Agent's report of the 22nd November 1853, and in another he asserts that the sale of the premises "without any previous communication or arrangement with the two Sirkars was very unjust."

Fort Saint George, Political Consultation, 11th January 1859.

This would appear to be quite at variance with the real facts of the case, the Agent of the Cochin State was clearly informed several months prior to the date of sale that the building which he claimed on behalf of that Sirkar was the undisputed property of Government and that his claims thereto cannot be recognized, with a view to avoid future difficulties and unnecessary correspondence, he was also desired to remove the Tobacco to some other place, but upon a representation of his inability to do so without orders from his Superior, he was permitted, as a temporary measure, the use of a new Godown constructed in 1850, at considerable expense to Government. Due notice was also given several days before the date of sale, and the Agent was expressly desired by myself both at that time, as well as previously to apply to the Dewan for instructions to purchase such portion of the Godowns as he may require, and I am therefore led to conclude that the Dewan had fully been made acquainted with the determination to sell the Building beforehand, if otherwise, the fault lies upon the Agent, who has culpably neglected his duty in not giving timely intimation to his Superior as desired [illegible] the Dewan could not possibly fix upon this Department, such was not the case with the Agent of Travancore, who appears to have reported the proposed sale to the Dewan of that State, as will be seen from his letter of the 12th November 1853 to your address.

7. After this explanation I need scarcely remark that the claim of the Cochin Dewan is utterly untenable; that the sum paid by that State has already been amply repaid, that fair opportunities were afforded to the Agent to purchase as much as he wanted, that he actually offered to purchase one and was out-bid; that no specific Building was given either to Travancore and Cochin, on the contrary, the allotment temporarily made was discretionary and regulated with reference to local circumstances, and that any inconvenience which the Native States may now be put to from the neces[illegible] to remove their Tobacco has been owing to the neglect of their own Agents and not to a want of accommodating spirit on the part of this Department.

8. The parties who have made the purchase are clamorous in consequence of the delay in obtaining possession of their property, (the sale having been confirmed by the Board of Revenue several weeks ago,) and any further delay is likely to induce them to recede from their agreements for the payment of the purchase money, in which case the interests of Government will greatly suffer. I have only gone into this needless repetition (of a matter already disposed of) in deference to the Cochin State.

9. I have further to inform you that the remainder of the Cochin Tobacco was removed this morning under my own personal order and inspection from the Godowns hitherto lent to the Cochin Circar Agent at the Public Sale 2½ months ago, both the Agents bid for the Godowns, (thereby clearly showing their want of right, had it not been otherwise clear,) but too low, and therefore lost them, they were then allowed 10 days, which they fully understood, and agreed to remove their Stock, they did not do so as promised, but evaded it for more than 2 months, the purchasers all the while clamourously demanding rent or the Agents to clear out, the Agents were finally, in deference to the 2 Sircars allowed 10 *days' more grace*, the Travancore Agent made a fair arrangement at last to pay rent to the present owners, the Cochin declined doing one or the other,—was also personally disrespectful to me, refusing to open the Government Godown, or give any information of the quantity in his charge, the door was therefore opened by my order, the Tobacco removed, and a temporary and safe shelter in my Talook Cutcherry allowed him, the Godown being given up as was due 2 months ago to the purchaser.

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No. 10. ORDER THEREON, No. 14; dated 5th January 1859.

The Acting Collector of Coimbatore solicits the orders of Government as to the disposal of a quantity of Tobacco, the property of the Cochin Circar, now lying in the Tahsildar's Cutcherry at Coimbatore.

2. It appears here, that many years ago, probably on the passing of Regulations VII and VIII of 1811, which provided for the Monopoly of Tobacco in the Provinces of Malabar, Canara and Coimbatore, there were erected at the chief town of the last mentioned District, certain Godowns to store the Tobacco to be delivered up to Government by the Ryots These Buildings were constructed mainly at the expense of the Government, but a small portion of the outlay was contributed by the two Native States of Travancore and Cochin, with whom Tobacco was and still is a Monopoly, and who, up to the passing of Act IV of 1853, were in the habit of supplying themselves with that commodity by purchases made from the Coimbatore Storehouse; in which a few Godowns were set apart for their use; but no charge was made on them for rent, in consideration of the contributions to the Building Fund above adverted to.

3. When Act IV of 1853 came into operation, the Board of Revenue directed the sale by Public Auction of the whole range of Tobacco Godowns. The Collector accordingly named a day for this purpose, giving due intimation of it to the local Agents of the two Circars, in case either of those States should wish to come forward as purchasers. No notice was taken of this communication from Cochin, but the Dewan of Travancore opposed the sale, on the ground of the share taken by his Government in the original construction of the Buildings. Subsequently however he acknowledged that this objection was untenable, and consented to pay rent to the parties who ultimately became the purchasers.

4. After the sale had been concluded, the Cochin Dewan came forward with the same objections that had been submitted and withdrawn by the Dewan of Travancore. His Agent was instructed to refuse all payment of rent, and to decline leaving the premises. It became necessary therefore to break open the doors, and to remove the Tobacco under the supervision of the Police. The bales were lodged in the Talook Cutcherry, where they have remained ever since, of course greatly to the inconvenience of public business, in consequence of the Cochin Authorities having omitted to specify what they would wish to be done with them.

5. The Governor in Council is of opinion that the claim of the late Dewan of Cochin, in regard to an alleged joint proprietorship in the Buildings in question, cannot be sustained. The matter, he observes, was fully discussed as far back as the year 1820, when it was admitted by the Assistant Resident, on behalf of the Cochin Circar, that the Godowns were the entire property of the Company, and that the Circar had the use of a portion only. On the Company's Monopoly being abolished, the privilege up to that time accorded to the two Circars, of using portions of the premises naturally ceased to have effect. A sufficient notice to quit was given to their respecting Agents, and the Godowns where then sold. The reasonableness of the Collector's proceedings has been acknowledged by one Dewan, and the matter cannot be allowed, longer to lie over. The Tobacco in Store will be sold by the Acting Collector at Public Auction, and the proceeds remitted by him to the Cochin Treasury, after payment of all expense incurred.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. J. A. Wilson.

Political Dep.t C

No 14

Ent.d 5/5 January 1859.

Read the following letter from the Coll.r of Coimbatore } Ltr entered No 5C dt.d 30th Novr.

The Act.g Coll.r of Coimbatore solicits the orders of Govt as to the disposal of a quantity of tobacco, the property of the Cochin Circar, now lying in the Tahsildar's Cutchery at Coimbatore:

2. It appears here, that many years ago, probably on the passing of Regs.s VII & VIII of 1811, wh provided for the monopoly of Tobacco in the [illegible] Malabar, Canara & Coimbatore — there were erected at the chief town of the last mentioned district, certain godowns to store the Tobacco to be delivered up to Govt by the Ryots. These buildings were constructed mainly at the expense of the Govt, but a small portion of the outlay was contributed by the two native states of Travancore & Cochin, with whom Tobacco was & still is a monopoly, & who up to the passing of Act IV of 53 were in the habit of supplying themselves with that commodity by purch[illegible]

of the premises naturally ceased
to have effect. A sufficient notice
to quit was given to their respective
Agents, & the Godowns were resumed.
The reasonableness of the Collector's
proceedings has been acknowledged
by one Dewan, & the matter can.
not be thought longer to lie
over. The Traces in
store will be sold by the Act. Coll.
at public auction, & the proceeds
remitted by him to the Cochin Treasury,
after payment of all expenses
incurred.

D.F.C. 20/12/58.

To the Ag Collr of Coimbatore
" Collr of Tanjore } Desp. 2 Nos

C 21 Dec

In Sr. b. Cons: 11 Jany.
Political 1859 Depart.t

No. 14

Extract fr. Mins. of Coun.l

D/5 January 1859.