(1) பக்கங்களின் எண்ணிக்கை

(2) புதுக்கித் திருப்பிய நாள்

(3) ஆதாரம் குறிப்பவர் கருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

Land Minutes Consolidation Revenue துறை

அரசாணை எண்.
மு. கோப்புத் நாள் எண். 805

அச்சகம்
ஆவணம்

(Back Nos 37-39)

நாள் : 11. 8. 1857 199

ண்டபடி கையாளவோ கூடாது.

1—18,006—6-9-90.

பாதுகாப்பு பிரிவு-1

செப்பனிடுபவர் பெயர் 4-C எஸ்.

செப்பனிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள் 10/06.

செப்பனிட்டு முடித்த நாள் 4/07

சரிபார்க்கும் முதல் மு.நி.பா.எ கையொப்பம்.

சரிபார்க்கும் 2ம்.பா.எ. கையொப்பம்.

உதவியாளர் கையொப்பம்

Fort Saint George, Revenue Consultation of 11th August 1857.

Read the following papers.

No. 37. From W. ROBINSON, Esq., Acting Collector of Malabar; to H. FORBES, Esq., Acting Secretary to Government Revenue Department, Fort St. George, dated Calicut 6th March 1857, No. 37.

Sir,

E. M. C. No. 194 dated 19th February 1856 Chief Engineer's Resolution thereon, No. 1301, dated 27th ditto.
From ditto: 22d April 1856, No. 2,668.
Do. 19th July ,, ,, 5,043.
To do. 25th July ,, ,, 2,187.

I have taken an opportunity while in Wynaad recently to make myself acquainted with the subject matter of the correspondence noted in the margin.

2. The Forests in question are those at the foot of the Hills in the direction of Teppacadow and belong to the Nambalakode Umshom of the Wynaad talook, which formed the petty principality of the Namalakode Varnoover family, and is the fee simple property of this family. The last member of the family is now with the Nellamboor Rajah who has possessed himself by sale of Court and other transactions of the entire property of this family, and is now unquestionably the party in occupation "defacto" whether "dejure" must be decided on the death of the last representative of the Proprietors, of his right to lease the forests, therefore, I have no doubt. The only claim the Government could raise to the forests would be by claiming it as an escheat on the death of the last heir, who is supposed to be "non compos mentis."

This matter will form the subject of further and separate report.

3. Of the value of the forests, which is an extensive tract, I am unable to form a judgment and it would require research I am unable to undertake, and would rouse an anxiety as to our ulterior intentions which I do not think would be right till we had established a right to enter on this private property. Forests of this description have a very varying value, and no doubt the value of its present usufruct is fairly represented by the sum contracted for by Captain Campbell.

4. The Forests being private property, no measures of public conservancy could be introduced in consonance with the thorough recognition of private right now existing in the province.

No. 38. Extract from the Proceedings of the Board of Revenue; dated 13th May 1857, No. 1560.

Read letter from the Acting Collector of Malabar dated 6th April 1857.*

**In Cons. 13th May 1857.*

(Here enter No. 38.)

Resolved that the above letter be laid before Government, with reference to Extract Minutes Consultation 29th September 1856, No. 1734, P. W. D. (Public,) and 11th March 1857, No. 245, Revenue Department.

2. In this communication the Acting Collector reports on the claim of the Nellumboor Rajah to a tract of from 120 to 150 square miles in the Wynaad talook of that District.

3. Of this large tract the Numbalacode Varnaver family was for generations the acknowledged hereditary jemmy in the fullest sense of the term. In 1785 Tippoo seized the Wynaad country and on its compulsory cession by the Coliote Rajah detached it from Malabar, to which however it reverted on the conquest of Mysore in 1799. In the interval it was in a state of rebellion, and since its reversion the peculiar land tenures of the District have revived and been acknowledged.

4. During the first years of British rule in Malabar, Ramooty Varnaver was the jemny of the Numbalacode Amshom. This person died, leaving a nephew Kellookutty Varnaver and two sisters as his surviving representatives.

5. The nephew came into the mangement of the property and if not half witted, was so little fitted for his position that he became involved in pecuniary difficulties. One source of his embarrassments arose out of transactions with wood contractors who leased his forests, and the result of his difficulties was that he became involved in pecuniary relations with the Nellumboor Rajah.

6. In 1835 the greater part of the property was sold in satisfaction of a decree held by one of the forest contractors and was bought by the Nellumboor Rajah, who also had a mortgage claim on the land, and who by this purchase and by subsequent transfers possessed himself of the entire tract and has held it for upwards of 20 years.

7. Kellookutty Varnauer died in 1844, leaving a sister, one of those already mentioned, and her son a boy of about 10 years of age, whom the Nellamboor Rajah removed to Nellamboor where the son shortly after died. The sister, the last surviving member of the family, now remains under the protection of the Nellamboor Rajah nominally of her own free will.

8. Mr. Robinson discusses the several modes in which the Government could assert its claims to the tract in question.

9. The first of these is by denying the title of the Jemnies to the Forests and unappropriated waste, in virtue of the conquest of the country from Tippoo in 1799. This claim however could scarcely be asserted after so long a lapse of time, it would, as Mr. Robinson remarks, affect every jemny in Wynaad, and the Board think would be equally unjust and impolitic.

10. The second mode of action mentioned by Mr. Robinson is to escheat the property and endeavour to annul the sale in 1835 by a Civil suit. To this course also there are insuperable difficulties. The Government were indeed no parties to the suit, but their reversionary claim was then distant. A period of 22 years has elapsed since the sale; a member of the family still survives and is in the interest of the party in possession. The greater portion of the property was purchased at a Court sale, for a price below its value no doubt, but still by far the highest offered after several adjournments. As the Government were not parties to the suit which ended in the sale, and had a reversionary interest in the property, an action to set the sale aside would doubtless lie; but the Board see no prospect of a successful issue.

11. As regards the property acquired otherwise than by sale from Kellookutty Varnaver, who has been dead nearly 13 years, the difficulty of disputing the validity of the transfers would be very great. The plea of imbecility would not be easy to establish now and would be met by the argument that it had never been urged by the parties principally interested to evade heavy liabilities. It is not clear from the Acting Collector's letter what portion of the property was obtained by transfers from the surviving sister.

12. On the whole, the Board concur with Mr. Robinson that the assertion of the claims of Government at this time is not likely to be attended with success.

13. If however Government consider it expedient to try their claims, the best course would seem to be to constitute Soobady, the surviving sister and last representative of the family, a Ward of Government under Section II. Regulation V. of 1804, and at once assert her claims to all the property not included in the Court sales. This measure would bring to light the titles on which the Nellumboor Rajah's rights are founded, and Government could be guided by the information gained as to the course to be pursued in asserting their own claims.

14. The adoption of any step of this kind will of course depend on the fact of the property paying revenue to Government so as to bring it within the scope of Regulation V. of 1804.

15. As already remarked, however, the Board doubt, whether the Nellumboor Rajah's claim can now be successfully disputed. The Acting Collector has not stated specifically,

Fort Saint George, Revenue Consultation of 11*th August* 1857.

whether in the event of any portion of the lands referred to being brought under cultivation, Government will be entitled to assessment thereon. This information Mr. Robinson will furnish as soon as possible.

16. In a P. S. to his letter Mr. Robinson states that he fears much misapprehension exists as to the extent and value of the Malabar Forests over which the Conservancy Department can exercise control. Mr. Robinson does not mention the probable extent of the Government Forests, but this information has probably been furnished to the Conservator.

(A true Extract.)

(Signed) J. D. SIM, *Acting Secretary.*

No. 39. ORDER THEREON No. 805; dated 11th August 1857.

In these papers the Acting Collector of Malabar, and the Board of Revenue reply to certain references made by Government for information respecting the Wynaad teak forests in the District of Malabar.

2. There are two questions connected with the subject which will need to be separately noticed.

1st. The right of Government to all the forests in Wynaad.

2nd. The right of Government to that particular tract of forest land obtained by the Nellumboor Rajah from the Numbalacode Warriar family.

3. The first question originated in a letter from Mr. G. Williams, formerly contractor for sleepers to the Railway Company, who proceeded first to the Goomsoor country, and afterwards visited the forests on the Western ghauts, with the view of eventually obtaining permission to work them. In his letter to the Collector of Malabar dated 5th November 1855, written after a visit to the forests of that District, Mr. Williams gave a detailed account of what he had observed during his progress through those forests; and among other things he alluded to the great waste of timber which was taking place from the uncontrolled and unsystematic method pursued by the people of the country in working the jungles.

4. In disposing of these papers, the Government expressed themselves fully alive to the waste committed in the forests under this Presidency in the absence of any sufficient system of conservancy; but before deciding on any measures for checking those practices, they required the Collector to furnish a general report on the subject, shewing the probable extent of the Government Forests, with his own opinion as to the means to be adopted for their conservancy. The Government at the same time recorded their belief, that the rights of Government in that direction had been much infringed; and that, whereas the whole of the Forests of Wynaad belonged rightfully to the Government in succession to the Pychee Rajah, private claims, founded on no good basis, had been allowed to spring up, and had in some cases been even officially admitted, to the great injury of the rights of Government. The Collector's attention was accordingly called to this subject also.

E. M. C. 3rd January 1856, *No.* 2.

5. The second question arose out of the Chief Engineer's letter of the 23d January 1856, giving cover to one from Captain Campbell, Assistant Executive Engineer on the Neilgherries, in which that officer reported that he had taken up, on behalf of Government, on account of the Jackatalla works, a lease of a forest in Wynaad for two years, being the remainder of the term for which the lease was granted by the Nellumboor Rajah to a Parsee named Eduljee Sait, at a rent of Rupees 2,300 per annum. In their Resolution of the 19th February 1856, the Government confirmed Captain Campbell's proceeding, but to enable them to decide on its propriety, they desired to have the opinion of the Collector respecting the value of the Forest, and the title of the Lessor, observing with reference to the latter point, that they had lately seen reason to order that enquiries should be made.

From Ch. Engr. 23d Jan. 1856, *No.* 486.
Ex. Mins. Cons. 19th Feb. ,, *No.* 194.

From Mr. Clarke Collector of Malabar 25th July 1856, *No.* 2187.

6. Mr. Clarke, Collector of Malabar, replied to this last reference through the Chief Engineer. He believed that the Forests in question were purchased by the Tiroopaud of Nellumboor, at a sale made in execution of a decree passed in 1830 by the Zillah Court of Tellicherry against the Numboola Cota warriaur. This property was represented to extend far into Mysore on the east, to the Pycara river on the South, to cover a large tract in Wynaad, and to include the forests leased to Captain Campbell.

7. Mr. Clarke further referred to a "report on the Districts of Malabar and Canara" written by Mr. Sullivan to Government, in which that Gentleman questioned the right of the warriaur, and consequently of the Tiroopaud, to the tract between Nadacottah and the Pycara river, and urged strongly on Government the propriety of some steps being taken to try and determine the question of the right to this tract as between the Todavers of the Hills and the Tiroopaud. Mr. Clarke could not find that any notice was taken of this proposition, or what proceedings resulted from it. In Mysore, Mr. Clarke said that the Tiroopaud's claim had been successfully resisted, and he conceived, that had it been brought to trial in Malabar, it might have shared the same fate, but as no proceedings had been taken in the matter, he presumed, that this long forbearance would be construed by the courts into a tacit admission of the claim, and he feared that a case could not be produced which would upset the purchase of the Tiroopaud under the Court's deed of sale. He had however applied to the Tellicherry court for further information, and had moreover taken measures to ascertain the value of the forests, and he promised to address the Government again.

8. In Extract Minutes Consultation 27th August 1856, the Government agreed to await the further report promised by the Collector of Malabar, and they at the same time called the attention of the Chief Engineer to the order of 3d January 1856, requiring information as to the rights of Government in the Wynaad forests generally. They also resolved to apply to the Commissioner of Mysore for information as to the proceedings taken to resist the Nellumboor Tiroopaud's claim to forests in that country.

E. M. C. 27th Aug. 1856 *No.* 1527.

9. In a letter dated 9th September 1856, the Commissioner of Mysore forwarded, in reply to this reference, a letter from the Superintendent of Bangalore, in which that officer gave a full account of the nature of the Nellumboor Rajah's claim, and the manner in which it had been resisted. The claim had reference to the right of cutting sandalwood in certain villages of the Goondul talook in the Mysore country, and involved likewise the right to the jemny or proprietary of those villages. It will be sufficient in this place to say that the Rajah's claim was founded on the purchase of the proprietary right at a sale held in 1835, in pursuance of a decree passed in 1830, by the Wynaad Moonsiff, who it was asserted had jurisdiction in the case, while, on the other hand, it was maintained, as one amongst other grounds set up for the defence, that the sandalwood tracts were part of the Mysore territory. In passing orders on this communication, the Government, instructed the Acting Collector of Malabar, through the Board of Revenue, carefully to examine the grounds of the Nellumboor Rajah's claim to the forests which he holds in the Wynaad, and submit his opinion on it, as well as on the means to be taken for enforcing the rights of Government, if he should see reason to believe the claims of the Rajah to be unsound, wholly or in part. It was observed that the decree of the Court which led to the sale, and on which he founded his claims, was not binding on the Government, as they were no parties to the suit; and that in order to establish his own title, the Rajah must prove that of the Warriaur of Numbala Cottah to whom it was alleged the forests belonged prior to the Court sale. It was also remarked that, if it should appear after careful enquiry, that the forests really belonged to Government, no lawful means should be left untried to establish the right and recover possession.

Ex. M. C. 29*th Sep.* 1856, *No.* 1754.

10. On the 11th March 1857, Government called the attention of the Acting Collector of Malabar through the Board of Revenue to the order of the 29th September 1856, regarding the Nellumboor Rajah's claim to the forest he holds in Wynaad; as well as to the order of the 3d January 1856, No. 2, in which information was sought in respect of the whole of the forests of Wynaad, observing that the proceedings of the Conservator of Forests would be much influenced by what the Collector might report.

11. The letter of the Acting Collector of Malabar dated 6th March 1857, and recorded at the head of these Proceedings refers more pointedly to the tract rented by Captain Campbell. The Forests, he says are at the foot of the Hills in the direction of Teppacaudoo, and belong to the Numbalacode Umshom of the Wynaad talook. The last member of this Namalakood Varnoover family, a female, is with the Nellumboor Rajah, who has possessed himself, by sale of Court and other means, of the entire property of the family, and is unquestionably the party in occupation. Mr. Robinson entertains no doubt of the right of the Rajah to lease the forests. He is unable to form a judgment of their value, and thinks that until the right of Government to enter on possession should be established, no measures to ascertain that point should be undertaken. He adds, "the forests being private property, no measures of public conservancy could be introduced in consonance with the thorough recognition of private right now existing in the Province."

Ex. Pro. Board of Rev. 13*th May* 1857.

12. The Proceedings of the Board of Revenue dated 13th May 1857, also recorded above, purport to reply to the orders of the 29th September 1856, regarding the Nellumboor Rajah's claim to certain forests in Wynaad, and to the order of the 3d January 1856, regarding "the Wynaad forests generally." The letter from the Acting Collector of Malabar dated 6th April 1857, enclosed in the Board's Proceedings, refers to both orders,* but purports to report only on the claim of the Nellumboor Rajah on the Wynaad forests.

* *3d January* 1856 *No.* 2.
29th September ,, ,, 1754.
11th March 1857 ,, 245.

13. It would seem from these papers, that the entire possession of the Nellumboor Rajah in the Wynaad country consists of a tract of forests land of from 120 to 150 square miles in extent; of this large tract, it is said that the Numbalacode warriar family was for generations the acknowledged hereditary jemny proprietor. In 1785, Tippoo seized the Wynaad country, and detached it from Malabar, but it reverted to that District on the conquest of Mysore in 1799, and ever since, the peculiar land tenures of the District have been acknowledged. Of the Numbalacode family there is but one female member surviving, and she lives under the protection of the Nellumboor Rajah. The whole of this forest tract has come into the possession of the Nellumboor Rajah, partly by purchase in 1835, when the greater part of the property was put up to sale in satisfaction of a Decree of Court, and partly by transfers since obtained from the family.

14. The modes in which the Government could assert its claims to the tract in question are represented by the Acting Collector and discussed by the Board of Revenue. These are,

"I. First, in regard to the forests acquired by purchase."

1. By denying the title of the Jemnees to the forests and unappropriated waste in virtue of the conquest of the country from Tippoo in 1799.

2. By escheating the property, and endeavouring to annul the sale in 1835, by a Civil suit.

"II. Secondly, in respect of forests acquired otherwise than by purchase."

3. By disputing the validity of the transfers, made by the last male member of the family previous to his death.

15. The Board point out the difficulties which beset each of these modes, and finally agree with the Acting Collector that the assertion of the claims of Government at this time is not likely to be attended with success. One other mode suggested itself to the Board, viz. that of constituting the last representative of the family, now with the Nellemboor Rajah, a Ward of Government under Regulation V. of 1804, and asserting her claims to all the property not included in the court sales. To the adoption of this course also there were difficulties, and on the whole the Board doubt whether the Nellemboor Rajah's claim could now be successfully disputed.

16. The Government are constrained to remark that the reports of the Acting Collector and the Proceedings of the Board of Revenue are meagre and unsatisfactory on the main points of the question, and do not in any respect answer the requisition contained in the order of the 3d January 1856 as to the right of Government in the Wynaad forests generally. There is not the slightest attempt to get at the origin of the Numbalacode proprietor's rights, and vague declara-

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tions that the family has possessed the jemny of the forest for generations are held sufficient, whereas it is notorious that extensive usurpations have been carried on in Malabar as well as in Canara since these Provinces came into British possession in 1792.

17. As regards therefore the first question as to the right of Government to the Wynaad forests generally, respecting which it has been said above that no information has been afforded. The Government resolve to refer back the matter to the Board. They request that the Acting Collector may be instructed to cause a search to be made in the records of his office, commencing from the earliest period, and to submit all the information that may be forthcoming, and that the Board will order a similar search to be made in the records of their own office, and furnish as full a report on the whole subject as the materials at their command may enable them to do. The Board will refer to the reports mentioned by the local officers, viz. Mr. Sullivan's Report on the Malabar and Canara Districts alluded to by Mr. Clarke in his letter to the Chief Engineer dated 25th July 1856; and the Joint Commissioner's report of 1792-93, as well as Mr. Chatfield's proposition to escheat certain forests referred to in Mr. Robinson's letter of the 6th April 1857. It would seem desirable also that Mr. Chatfield and other officers long acquainted with the history and usages of the country should be consulted, in view to obtain from them such particulars and information bearing on the subject as they may possess.

Dy. 26th February 1856, *Nos.* 42 43.
2d September „ „ 3 *at* 5
30th „ „ „ 64-65.

18. In respect to the second question, which is purely a legal one, the Government resolve to forward the papers recorded above, and the correspondence entered in the Consultations noted in the margin, to the Government Pleader, with a copy of these Proceedings, in view to ascertaining his opinion as to the sufficiency of the Nellumboor Rajah's title to the Wynaad forests obtained from the Numbalacode Warriaur family, and as to whether there are grounds for now asserting the rights of Government to those Forests.

19. The Acting Collector states in the Postscript of his letter of the 6th April, and the Board quote the statement, "that much misapprehension prevails as to the extent and value of the Malabar Forests over which the conservancy Department can exercise control." From a compilation on the teak Forests of the Tenasserim Provinces made by Dr. Falconer under orders of the Government of Bengal, in which is included a history of all the forests of India, and amongst them the Malabar forests, it appears that, as at present informed, there are only three forests belonging to Government, and that these, at the date of the report in 1839, contained no more than seven hundred trees. The Government resolve therefore to communicate the views of the Acting Collector and the Board to the Conservator of Forests, and to refer him to the compilation above mentioned for all further particulars.

(Signed) H. FORBES,
Acting Secretary to Government.

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25/1851

Sub Collectors Office
Tellicherry 4th December 1851.

From

R. Chalfield Esqr.
Acting Sub Collector of Malabar

To H. V. Conolly Esqr.
Collector of Malabar.

Sir,

The great influx of European Capitalists & Planters into Wynaad has had the effect of materially increasing the value of land in that province, whilst the difficulties they have had to contend with, before they could secure grounds suitable to their purpose, insecurity of the conflicting and uncertain claims, the prejudices and superstition of persons calling themselves the proprietors, have not only restrained their energies but might, if permitted to continue much longer, prevent the ingress of parties who, with capital at command, would, if no obstacles were thrown in their way, speedily bring vast tracts of jungle under

Cultivation

cultivation, and render this Country of Forests
one of the most fertile, as it is naturally
one of the most rich and beautiful, of the
British territories in India.

The time has I conceive arrived
when it behoves that some steps should be taken
to further the views of the Planters and, at the
same time, secure the Government from the
frauds of people who assume rights which
they have merely their own assertions to support.
The only manner [illegible] propose for the accom-
plishment of this most desirable object is
either by a regular survey, or by a light land
assessment, or, leaving matters much as they
are at present, asserting the peculiar and
primary rights of Government and investigating
each separate claim as fresh lands are
brought into cultivation, to decide at once
the conflicting titles. This last propo-
sition, supported by subsidiary rules
based on the questions proposed in another

part

part of this letter, is the one which I prefer
as being least unexceptionable to Ryot and
Planter and most easy of accomplishment
to a limited establishment. As matters now
stand Moplahs and Nairs from the low
country, persons who have made a settlement
in Wynaad, together with the Managers of
Payeras advance, and have been held to prefer
rights to Primaval Forests or uninhabited
jungles, without being able to produce a particle
of documentary evidence to show how or when
they severally obtained property from which,
as yet, they have derived no profit, and are,
in many instances, unable even to define
the boundaries.

In reference to those Hills on
which Teak, Cardamoms and Turmeric
are the spontaneous products, the Government
may feel inclined to consider a long nominal
possession equivalent to a legal claim;
but to those hills and jungles which are

unproductive

unproductive of commercial benefits, I cannot understand the grounds on which unwritten claims are based; and it accordingly seems to me that the rights of Government are clear and ought at once to be asserted over all Forests and jungles where there is no marketable commodity, in which there is no habitation, or regarding which no written titles are producible, for I believe the Zemmie of landed property in Wynaad and Malabar is such that where there is a true Claim it will always be found to exist a written document in its proof.

The Sahsildar under my immediate direction has drawn out a statement of the number of Hills and Claimants in one Unsham, with a view to show the amount of uncultivated territory and the nature of claims advanced to its possession.— Many of the depositions taken from the claimants are amusing, and

and could not, I think, in any Court of Law or Equity be held worthy of consideration as establishing a title.— From all that I have seen and heard I entertain no doubt of the former Rajahs having been looked upon as the sole proprietors of the Waste lands in Wynaad, and the existence of title which is invariably deduced from the liberality or necessity of the Rajah is proof of this, whilst the known prejudice that universally prevails in Malabar against a formal and entire relinquishment of valuable land, renders it highly improbable that the Lord Paramount, except, in cases of extreme favor or extreme exigency, ever made an absolute disposal of his rights— as his prejudices & interests would oppose his doing so in one Case, the absurdity of bequeathing a wilderness of useless forests, except as hunting ground, would prevent his doing so in the other.— That tracts of jungle and forest land were granted for the amusements of hunting is known and acknowledged, but it is not known

Known and cannot be acknowledged that this pre-
-vilege conveyed more than the terms expressed,
or in any way interfered with his proprietory
authority, by preventing his resumption when
circumstances rendered a resumption desirable.

Many Wells you will perceive
are declared to be the property of a favorite
deity whose probable offence, at the encroach-
-ment of Europeans or Civilization, is thought
sufficient reason by the nominal proprietor
for withholding his donation from their disposal!
and this superstitious notion has, as you are
aware, prevented to the present moment the
clearing of a jungle in the immediate neigh-
-bourhood of Manantoddy itself! and
how far I would wish to be informed, if possible,
how far prejudice and ignorance are to be
allowed to stop the progress of improvement?
I believe it to be a practice in many parts
of India when a proprietor chooses, for no
reasonable motive, to leave his land uncultivated,

after a suitable offer has been made for its culti-
-vation, that he should either be compelled to
resign it, or if permitted to retain it, pay to
the Government the loss entailed by his folly,
his prejudice, or his perverseness - I cannot
think this a very serious hardship, and some
rule of the kind is imperatively called for
in Wynaad where the exertions of Mr Cowley
have been impeded, and losses sustained by
Government, under the futile objection of a
preference to jungle or the dread of offending
an irritable deity.-

As you have taken under your
more immediate consideration the peculiar
claims of the present Rajah of Cottiyom
to the estates of his Ancestors in Wynaad
I need say nothing on the subject; tho' the fact
of the last Rajah of Wynaad in 1804 his estates
were of course escheated to Government and
his successor in Cottiyom can hardly presume
to claim possession by descent.-

The

The propriety of a survey of the whole of Wynaad, with an attentive inquiry into the pretensions of the present occupiers and supposed proprietors of the soil, is a matter for the deliberation of Government and one which, as it would be laborious and might awaken the fears of the inhabitants, it may not yet be inclined to sanction. Presuming such to be the case it might be sufficient, for all present purposes, to obtain a decision on the following points, Viz.—

Whether hills on which any marketable commodity is produced, and has been used, by persons having merely a claim founded on possession, should be thought sufficient to entitle them to the rights of proprietorship.

Whether, or to what extent, superstitious or unreasonable objections to the cultivation of land are to be complied with when a fair consideration is offered for

for the property.

And whether, lastly, the privilege of hunting which as I have above mentioned was extensively granted by the former Rajahs entitles to any pecuniary consideration on the tracts, over which the privilege extended, being disposed of.

Should the Government however consider an answer to the preceding questions, and a strict conformity to the subsidiary rules which they must establish sufficient security for the protection of its interests, I would beg to suggest the propriety of a light assessment on future cultivation in preference to the more cumbrous and annoying process of a survey with an investigation into claims which, however untenable, have in some instances the guarantee of time and prescription. The only objection I can see to this last proposition is the probability of its withholding the

the investment of capital in Wynaad which,
from its exclusive privileges, is looked upon
as the El Dorado of Coffee Planters; but;
whatever the Government may determine for
the future, its liberality I hope would be
extended to the past so as in no manner to
interfere with the present cultivators of
the soil or the existing titles of the present
Coffee Planters who, as they have acted in
good faith, it might be unjust to make
suffer for their ignorance, by demanding a
repayment for what they have already paid
a fair equivalent; and in order that the
Ryots may not, under any circumstances,
be unnecessarily molested, I am sure you
will advocate the propriety of the smaller
hills, in the neighbourhood of cultivated
fields or valleys, being left to them and
their Cattle.-

In the event of Government
assuming possession of the Forests, Jungle
and

and Waste Lands in Wynaad, on which
no satisfactory claim is advanced, I would
propose the issue of a proclamation explanatory
of its intentions and calling upon all persons
to produce their titles for Registry and examin
nation in the Talook Cutchery before the
expiration of a given time, this would prevent
future forgeries which, as far as the Ryots
are concerned, have proceeded to extreme: lengths
but are not I conceive very difficult of detection.
And, as exorbitant demands have been,
and still might continue to be made by
persons desirous of opposing improvements I
think when such cases arose they should be
referred to a Punchyet and the parties compelled
to abide by its decision - a provoking instance
of this kind has occurred in Wynaad very
lately - A man, with no documentary evidence
lays claim to certain Hills in the precincts
of Mr. Cowleys extensive plantation at
Pindanal, and refuses to dispose of

them

than, because he prefers their remaining as
they were in the days of his forefathers clothed
with jungle, roofless, and uninhabited except
by wild beasts; on being, however, pressed upon
the subject he consented to sell, provided he
received a sum which was purposely made
prohibitorious in order to stop further negotiation.

The Statement of the number
of Hills and claimants in the Umchom
of Ellemgad as well as the proceedings held
by the Tahsildar of Wynaad on the subject
are herewith forwarded.-

I have &c.

Tellicherry
1 Decr 1805.

(Signed) R. Chatfield
Asstt Sub Coll.

To
H. V. Conolly Esqre
Collector of Malabar

(True Copy)
Collector

No 3
1846

Calicut 9th January 1846.

From

H. J. Conolly Esqre

Collector of Malabar

To

J. Pycroft Esqre

Secretary to the Board of Revenue

Fort St George

Sir,

1. I have the honor to forward a report from my Acting Sub Collector on points of considerable interest connected with the proprietary right of large tracts of Jungle land in Wynaad which have acquired a value hitherto unknown, from its having been ascertained that they are suited for the Cultivation of Coffee.

8/4th December 45.

2. Mr Chatfield enters into the subject in detail and propounds various queries on which he thinks it desirable to have the sentiments of his Superiors.

3. Mr Chatfield asks whether

Hills on which any marketable commodity is produced and has been used by persons having merely a claim founded on possession should be thought sufficient to entitle them to the right of proprietorship."

Mr Chatfield I consider refers here particularly to Cardamom Hills which are found chiefly on the borders of the line of Chaut which devides Wynaad from the lower Country of Malabar.

I do not myself think it would be advisable for the Government to interfere in any such case where a bonâ fide possession, however imperfect obtains. They would only dispossess the holder by a suit of law - success would be a dubious good - The Government probably get as much from their share (one half) of the Cardamoms produced in private hills as they would from the whole produce if they were public - the care and labor of a proprietor to secure as large a crop as possible would be double that bestowed by any one on Government property.

5. The Acting Sub Collector's second query is, "Whether or to what extent superstitious or unreasonable objections to the Cultivation of lands are to be complied with where a fair consideration is offered for the property."

Mr Chatfield alludes to lands which is acknowledged to be private property - It would be difficult perhaps to lay down any exact rules on this point, suited to all cases. Each case must be judged of according to its peculiar merits. That the prejudices of the people should not be unduly intergered with and that no intrusion should take place on ground especially appropriated for religious purposes is a question of no doubt - But it must be remembered that the native

proprietor

proprietors of Wynaad (Chiefly a limited
number of Heirs & Brahmins) are, to an
extraordinary degree, ignorant & prejudiced
(probably from the very isolated position
in which from the nature of their Country
they have so long remained) and that
their abhorrence of innovation is so great
as to lead them in many instances to
throw all sorts of unreasonable difficulties
in the way of Europeans obtaining land.
Their interest it would have been thought
would have induced them to act otherwise,
but it has not. * * * * * *
* From the first they have been
averse to their quiet and uniform life
being in any way interrupted. They argue
that they and their forefathers have hitherto
lived in unruffled ease on their Estates
that they are well contented with the old
Regime and have no wish for a change.
Their arguments are indeed singularly

like those formerly adduced by the Todurs
against the settlement of Europeans on the
Neilgherries. They think their presence
"Unlucky" and that the benefit of their
expenditure of Capital is counterbalanced
by murrain among their Cattle and other
misfortunes. Hence so far from aiding
they would throw every possible difficulty
in the way of their obtaining land.

A man with an extensive Forest
or hill which produces and cannot produce
more than 100 Rupees worth of Cardamoms
per annum resists all entreaties to dispose
of either on rent or mortgage of his pro-
perty though if fully cultivated it would
produce ten thousand Rupees worth of
Coffee per Annum.

6 How it seems to me unfair to
Government to say nothing of other parties
that this state of things should continue.
I would act here as in the almost exactly

analogous case of the Todurs above referred
to- I would not allow any proprietor to
reck his land in an unproductive, or
nearly unproductive state as he could
be made fully productive- I would insist
on his coming to some reasonable terms, to
be settled either by a punchayet, as Mr.
Chalfield recommends, or by the European
Authority of the District, which would be
beneficial to himself, the settler and the
Government. It may be said this would
be an invasion of private rights, but to this
I would remark that the Government have
no where so thoroughly relinquished their
claims as Sovereigns as to leave it in the
power of any proprietor to leave his ground
waste to the detriment of the public in-
terests. In lower Malabar, even where
proprietary right has been more thoroughly
and invariably admitted than in any
other part of India, this has not been,

done- If a land-holder will not cultivate his
waste, the Government considers themselves at
liberty to get some one who will, reserving
always to the said land-lord the share
of the produce which his right as proprietor
entitles him to, according to the usage of the
Country.-

7. In peculiar illustration of this point
I would beg to observe that it would be
quite contrary to the practice of the Country
for the land-lord to prevent any native
from cutting down jungle in his land
for the purpose of Cowry Chilly, paddy &
Cultivation. The Cultivator outs it on
doubt with the land lords permission and
pays him the immemorially fixed proportion
of the produce he may obtain as a rent- but
what I mean to say is that no land lord
would be held justified in preventing his
Tenant being so cut merely to please an
fancy the Government who would lose by

Shade of green to
jungle land which
bears as valuable
produce.-

his

his doing so would interfere. Now Coffee planting is nothing but the Pomum Colli, carried on on a large scale. It is true that from one or other cause, or a great one being scarcity of labor, the Pomum Cultivation is not so much known in Wynaad as in other Talooks of Malabar. but this does not affect the principle of the question. In Wynaad it is to have the advantages of the Jenm proprietary right in the same way with the Talooks of lower Malabar. it must also take its responsibilities. Unless the Proprietor chooses to indemnify the Government for the consequences of his obstinacy in leaving his land unproductive, he must either cultivate it himself or give it to some one who will.

The Government profit on the cultivation of Coffee in Malabar accrues at present from the duty on exportation. See Para 11. Lower Comm.

18. It is a matter indeed of much doubt whether the Jenm right ever did prevail in Wynaad as in other parts of Malabar. The former Rajahs of that country seem to have been much more absolute there than they were in the lower districts. Almost all alledged rights are said to be derived from them even at the present day. But without entering into this question, I may simply remark that the paramount rights of the Rajahs, their royalties, descended of course to, and that there is no reason why we should abandon them. This leads me to Mr Chatfield's last question. He asks whether the privilege of hunting which he shews was originally granted by the former Rajahs, entitles to any pecuniary consideration on the tracts over which the privilege extended being disposed of.

I have no hesitation in giving my opinion that it should not.

I consider that all the forest land which as producing no valuable commodity could never have been worth the time of former sovereigns to alienate, or of subjects to

[illegible]ht to purchase should, ioethout doubt, be claimed
[illegible]s by the present Sovereignes. That the mere
[illegible] temporary privilege of hunting in a particular
[illegible] locality granted or said to have been granted
[illegible]e a Rajah of old should entitle the
[illegible]s possessor of the privilege to consider that
[illegible]t locality his private property and to dispose
[illegible] of it as absolutely as he pleases would it
[illegible]t seem to me, be unnecessary and improper
[illegible] the abandonment of the public rights.

9. The Cardamom Hills which, as
[illegible] said before, have always had a marketable
[illegible]ue and which may therefore have long
[illegible] been held by private individuals, I would
[illegible]ain in the hands of those individuals or
[illegible] however imperfect their titles may be, with
[illegible] the reservation alluded to in my 6th para, but
[illegible] more jungle waste which till the last year
[illegible] or so has been utterly valueless for all
[illegible] Commercial purposes, I would certainly
[illegible] a time as the undoubted property of Govt.

This reservation of course must be accompanied very carefully.

10. A considerable quantity of
ground of this nature, as observed by Mr
Chalfield, is said to belong to some or other
local deity who has a small oratory - it is
too insignificant to be called a pagoda -
in a corner of it and it is insisted that
any intrusion on these limits would be
sacrilege. But the assertion is absurd -

A pagoda in other parts of Malabar,
and indeed of India generally, has certain
small limits set apart, laid down by the
way in the Hindoo sacred Books, within
which parties may not intrude. It is
only in Wynaad that we have a space of
many Square miles of the wildest jungle
pointed out which it is declared should
always remain in its primitive state - i.e.
lie abandoned to Game and wild beasts for
fear of the anger of the local deity to whom
without any documentary proof it is absurdly
to belong in case any of it was reclaimed -

Ther

11. The Board will not improbably remark that a simple plan presents itself of overcoming some of the difficulties which might occur by assimilating Wynaad to other parts of India and fixing an assessment on the lands which are yet for the production of Coffee. The suggestion is indeed made by Mr Chatfield who chiefly objects to it on the ground of its bearing hard on the settlers who have taken up land some at high prices on the belief there would be no land tax. Should the Board wish for the assessment, this difficulty may be removed or at least assessed by giving the present settlers an indemnity in the shape of a long Cowle. Cowles & liberal Cowles would indeed always be required to induce parties to go to the expense of clearing the deep & most ferocious forest which it has been found alone answers for Coffee - but a prospective

In my letter of 21st Decr. last, para 14, I have incidentally advocated the imposition of an increased Export duty on Coffee in place of a direct tax, the advantage of this plan may be counterbalanced by other considerations.

Since writing this I have heard with much regret of the death by fever of Mr Cowles, by far the most enterprising of the European settlers at Wynaad &c.

Cowle need not be so very favorable as justice I think, would require the retrospective to be. For the latter I should propose an exemption of 21 years - for Cowles to come 12 years might be the extreme limit. The rate of the assessment, were one fixed, I would propose to be from a Rupee to a Rupee & a half per Candy - the rate derivable by Government from the Cultivation of Cannum, to which in the 7th para of this letter I have assimilated the Coffee Cultivation. I would not make the assessment a general one. To do so would require an expensive and, with reference to the nature of the ground, a most difficult survey - all that would seem necessary would be to impose it on ground taken up for Coffee. But if an assessment is resolved on, it will still be necessary to determine on a principal question now submitted for notice, i.e. the presumption, or I should rather say, the assumption

The amount would in some measure depend on the question of the land being Government or private property. In the latter instance it would be remembered that the settlers had to pay land rent as well as land tax.

II. of the se large tracts which are in a mere
state of nature - These being taken by their
rightful possessor, the Government, might be
disposed of to settlers in proper lots either
by sale or on annual base as might be
deemed most desirable -

I have the honor to be,
Sir,
Your most Obt. & Humble
Servt
Calicut
9th January 1846.

Collector

To
The Secretary to the Board of Revenue
Fort St. George

1819 Malabar Jurisdiction 28 Augt

No 228

30

2080

Inform[ing] Mr Secy Dist[rict]

Sub Collector's Office, on Circuit,
Calicut, 27th July 1816.

From

R. Chatfield Esqre
Sub Collector of Malabar

To

H. V. Conolly Esqre
Collector of
Malabar.

Sir,

I have the honor to submit the report called for in the letter from the Board of Revenue under date the 6th February, and regret it has not been in my power to make the Statement more perfect from the distance of some of the Principals at Bombay and Madras, who have

been

been twice written to without obtaining a reply.

Calicut,
27th July
1846

I have &c.
Signed J.R. Chatfield
Asst Collector.

To
H. V. Conolly Esqre
Collector of
Malabar.

(True Copy)
Collector.

Consp No 3

No III.
1846.

Calicut, 17th August 1846.

From H. V. Conolly Esqre
Collector of Malabar

To I. Bycroft Esqre
Secretary to the Board of Revenue
Fort St. George.

Sir,

With reference to the concluding part of your letter dated 16th February last, I have the honor to forward copy of a Communication from my Sub Collector, together with the Statement therein mentioned, containing all the information which it has been practicable to obtain respecting the extent, situation and other particulars connected with the parcels of land taken up by Coffee Planters in Wynaad.

There is but one Coffee Planter

who

Recd 20th Oct 1846

From the Collector of Malabar
Dated 17th August
1846

To
The Secretary to the Collector of Malabar

Sub Collector's Office
Calicut 12th October 1846.

Sir,

I have the honor to forward herewith a statement showing the extent situation &c of the Coffee Estates in Wynaad.

Recd 20th Oct 1846
Ansd 12 Oct 1846

Counsd 11.13

who is settled out of Wynaad – Mr. Hutson. This Gentleman some months ago fixed himself in the jungle half way up the Koondah Ghat where he wishes to obtain 600 acres of Forest. No terms have been arranged, but I have pledged myself to his being dealt with very liberally in consideration of the enormous difficulties he has to contend with in a wilderness 15 miles from any human habitation – and those 15 miles of Ghat and jungle. His energy and spirit in fixing himself in such a site is above all praise, and I should be glad if the Government would shew their sense of it by giving him his 600 Acres rent free for 30 years. It will be a very great public benefit in every way if this desolate region which is on the great line from Calicut to Ootacammund can be to any degree civilized. The greater portion of this 600 Acres it will be borne in mind is covered with a dense, useless, forest, which it will require a very large expenditure

of time and money to clear and burn – from 1/6th to 1/3d is composed of rock and ravine –

I have the honor to be,
Sir
Your most Obedient Servant,
W Lovett
Collector.

Calicut,
17th August
1846.

To
T Pycroft Esqre
Secretary to the Board of Revenue
Fort St. George.

No 38

Sub Collectors Office on Circuit

Manantoddy 18th December 1846

From R. Chatfield Esqre

Sub Collector of Malabar

To H. V. Conolly Esqre

Collector

of Malabar.

Sir,

I have the honor to acknowledge the receipt of copy of the letter from the Secretary to the Board of Revenue under date the 12th October 1846 regarding the propriety of fixing some assessment on the Coffee Gardens already under cultivation in Wynaad, and recommending certain rules for the future guidance of the Revenue Officers and Planters..

I have lately had an opportunity of conversing with the principal Planters and Proprietors of Coffee in Wynaad and find one and all, of concurring in

the

the propriety and justice of a prospective assess-
ment, (viz on lands cultivated from the date of
their being made aware of the views of
Government) most decidedly hostile to the
levying of any tax on the Gardens at present
under cultivation, and which were cultivated
under a belief of their entire exemption
from all direct taxation.- It is stated, and
with apparent truth, that the undertakings
in Wynaad are purely speculative, no instance
having as yet occurred in which they can
be denominated successful, but that on the
contrary appearances are such as to lead to
a fear of the present Plantations entailing
a loss rather than realizing a profit.

You are aware from observation
and report that the Coffee Gardens do not
thrive as well as might be wished and that
the most experienced of the Planters are
far from sanguine of eventual success, and
taking into consideration this state of

uncertainty

uncertainty and the heavy outlay they have incurred
I think it might be advisable not to press the
subject of assessment on lands at present under
cultivation, more particularly as it could not fail
materially to deteriorate the marketable value of
the Estates which I believe more than one party
are desirous of selling, and it is not unworthy
of notice that had the Planters anticipated the levying
a tax they would have obtained their grounds on
more favorable terms from the Proprietors or pro-
bably have withdrawn altogether from an expensive
experiment.

Should you concur in my sentiments
I hope you will bring the subject to the notice of
the Revenue Board and in the mean time afford
me, if possible, the requisite data on which to regulate
taxation on any fresh cultivation in conformity to
the rules observed upon the Neilgherry Hills.

I have &c.

Manantoddy
18th December 1816.

Signed / R. Chatfield
Sub Collector

(True Copy)

Compd. W.B.

No. 1847

BB 127

42

Calicut 9th January 1847.

26

From

H. V. Conolly Esqre,

Collector of Malabar,

To

T. Tyerell Esqre,

Secretary to the Board of Revenue,

Fort St. George.

Sir,

I have the honor to forward copy
of a letter from me to the Collector recommending
with reference to the correspondence noted in
the margin that the subject of assessment
on lands under Coffee cultivation in Wynaad
may not be pressed for the present. I beg to
express my concurrence with Mr. Chatfield's
views. Late observations & enquiry has con-
-vinced me that he is right in his state-
-ment that the culture of Coffee in Wynaad
is as yet a questionable speculation.

much

4th Ultimo.

To Board 15th Jan. 1846
From Mr. 12 Feb.

much more so indeed than I thought it was last year - and that it will be impolitic to do any thing which may add to the depression of its prospects -

The principles laid down in the Board's letter of the 12th October last will shew me how to act in case the Coffee prospects improve and forest tracts are sought for its extension. The general belief at present is that an error has been committed in cultivating the open in place of the Woodland - the soil of the former it is feared is too poor to bear heavy crops in sufficient succession. -

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

Calicut
9th Jany 1847

Brownlow
Collector

To
J. Pycroft Esqre
Secy to the Board of Revenue,
Fort St George

Ex 2 W B

45

Extract from a letter from the Special Assistant Collector of Malabar dated 5th March 1857.

"I had a good deal of conversation with her apart from the Tirupad and from all his people. What Mr Clarke wrote to me to do was to ascertain the state of her mind, health and wishes, and this I endeavoured to do. The lady in question is about 40 years of age, rather talkative and quarrelsome. She has evidently been led to think that I had come from
incessantly requested to the often irrelevant assertion, that she got all she wanted where she was, that she looked for everything to the Nellambur Tirumpad and intended to live and die in his house and had and would have nothing to do with "Ambala Kottai" (the former head quarters of the family).

"She says she is in health and looks so; she fully has her senses, but now and then wanders off irrelevantly, and her memory fails her on some points. She does not

not like to be asked if she has any grievance,
and says grumpily "whatever I have shall
remain in my own bosom. I had formerly, but
I have done with them now, no body can do
any thing for me, all I wish is to live and
die here." She spoke with resigned despair
of the disappearance of all their wealth, and
with deep feeling of the deaths of her cousin
the Wanavar, her sister with her new born
child, and her own boy when about six years
of age. These losses seem utterly to have broken
her heart. she spoke of each one seperately as
long as the life had been gone
her sister and child died in Calicut, her
son here, and the Wanavar (she says
in Wynaad, but I am informed by the Con-
servator) here: about their former profecies
she seemed to know and care but little. I
am told that she has at one time been out
of her mind and I can well conceive that
her griefs have driven her so, though she has
since recovered them. She says that the Pellam-
bur Tirupad befriended her cousin, paid his debts
and thus released him from prison, and alto-
gether

gether she thinks the Pellambur Tirupad her
firm and only friends upon earth. after the
break up of the Wanavars prosperity he with
this woman and her child lived for some time
in the Pellambur Tirupads house, and she
dwells on the kindness of the latter when she
was wretched at the death of the Wanavar and
her boy. she says that before he died the
Wanavar made over all his property to the Pellam-
bur Tirupad and she herself also afterwards
made over all that was her own: she did not at
all like being questioned about their property and
said that it was very little, that though it was
called much yet if the crops did not come, and
the crops did not grow what then? She said
that when the late Wanavar came into his
estate the income was only about 500 panams
(or Rupees 125) which is of course a gross falsehood.
She had been instructed evidently to say that
she was very comfortable where she was, that all
their property had been already fully made over
to the Pellambur Tirupad and that it had
been worth little or nothing. She was cautious
and quarrelsome when asked about property

"and only spoke freely and naturally regarding
"the deaths of her relatives.

"Her state is more one of dotage
"than anything else, and that from grief
"not age, and she has evidently made up her
"mind at present to speak for, and live
"and die with the Bellomber Tompsons."

(True Extract)

W Robinson

Acting Colonial Sec.

Revenue Department — Calicut 6 March 1857

No. 37

From

W. Robinson Esqre.
Acting Collector
of Malabar

To,

H. Forbes Esqre.
Acting Secretary to Government
Revenue Department
Fort St. George.

Sir,

I have taken an opportunity while in Wynaad recently to make myself acquainted with the subject matter of the correspondence noted in the margin.

> [illegible] No. 194 dated [illegible] Feby 1856
> Chief Engineer's Resolution thereon, No. 1301 dated [illegible] Ditto
> From ditto [illegible] April 1856 . No. 2,168
> Ditto ditto [illegible] July — . 5,143
> To ditto [illegible] ditto — . 2,187

2\. The Forests in question are those at the foot of the Hills in the direction of Tappacadoo & belong to the Tambarakode Umshom of the Wynaad Talook which formed the petty principality of the Kammalattood Vairnoover family and is the fee simple property of this family. The last member of the family is now with the Nellamboor Rajah who has possessed himself

himself by sale of Court and other transac-
tions of the entire property of this family
and is now unquestionably the party in
occupation "defacto" tho whether "dejure" must be
decided on the death of the last representative
of the Proprietors - of his right to lease the
forests, therefore I have no doubt. The only
claim the Government could raise to the
forests would be by claiming it as an
Escheat on the death of the last heir, who
is supposed to be "non compos mentis".

3 Of the value of the Forests
which is an extensive tract, I am unable to
form a judgment and it would require a
research I am unable to undertake, I would
pause on anxiety as to our ulterior intentions
which I do not think would be right till
we had established a right to enter on
this private property. Forests of this descrip-
tion have a very varying value and no
doubt the value of its present usufruct is
fairly represented by the sum contracted
for by Captain Campbell

4 The Forests being private
property, no measures of Public conservancy
could be introduced in consonance with

This matter will form the subject of further & Separate Report

thorough recognition of private right
now existing in the Province.

(59)

I have the honor to be,
Sir,
Your most obed.t Serv.t

J. D. Rosenade
Acting Collector

Calicut
March 1857

To
H. Forbes Esq.re
Acting Secretary to Government
Revenue Department
Fort St. George

Revenue Department
No 38.
1857.

Cabcint, 6th April 1857.

From

W. Robinson Esqr
Actg Collector of Malabar

To

J D. Sim Esqr
Actg Secretary to the
Board of Revenue
Fort St George

Sir,

With reference to the papers noted marginally, I have the honor to report on the so called claim of the Nellamboor Rajah on Wynaad forests.

2. The claim refers to the Nambalacode Um shom of the Wynaad Talook, which includes the portion of the table land of Wynaad above the Carcoor Ranje east of the Devallacotta & Nellacotta Ranjes (Moodoo malla) down to Seppoocadoo River

Extract Minutes of Consultation dated 29th September 1856 No 1734
Ditto ditto 3d January 1856 No 27
Letter dated 11th March 1857 No 245.

Rent: 2d Feby 56 No 42 Vol 63.
12" Pruning 57 - 1
30" Rent 57 - 1 Vol 65
2 Copies - - - 2
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Copy
Dept

River, together with the portion of the Nalgherry Plateau, bounded by the Nalgherry Peak & the Pycara River. The superficial area may be 120 to 130 Square Miles.

3. The Nellamboor Rajah claims this land, in part, as purchaser, at a sale of the property of its Jenmy, the Nambalakoe Varnaver, when sold in satisfaction of a Decree of Court in 1835 and, in part, as private purchaser of the Remainder of the Jenmy's Claim over it by transactions which have taken place since. He (the Nellamboor Rajah) as it has for upwards of 20 years been in possession of the entire tract and the last hour is his dependent.

4. The Board are acquainted with the early history of Malabar, to which for Centuries the Wynaad portion of the Balaghaut High table land of Central India have belonged. It had become over-run by Malyalum Chieftains who appropriated

its

its territories & introduced the local Customs & Laws (Jenmy, Kanom, Morgada) obtaining in Malabar with regard to landed property & inheritance. Of the extensive tract of territory under consideration, a powerful Chieftain family called the Nambalakoe Varnaver, has for many generations been the acknowledged hereditary Jenmy, according to the full import of the Malyalum term - Under & fee-simple proprietor, under allegiance & succession, probably not unlike that under which certain Feudal Barons & others held in Europe.

5. There was a time during the latter end of last Century when no doubt an interruption in this condition of all the Wynaad Chieftains took place, when Tippoo in 1785 seized the Country of Wynaad, by a forced cession, from the Cohote Rajah and detaching it from Malabar annexed it to

The

the Talook of Seringapatam under the name of Chickloor. He took the Teak & probably usurped all royalties & forests in the right of Sovereignty which he claimed, introducing in this point of view, a system of Government new to Malabar. However this interruption was short-lived & incomplete, for, the Country remained in a state of Rebellion and from the time the Province was by the Conquest of Mysore in 1799, theed condition (that of Malabar generally) viz: the acknowledgment of the Jenmom to fee simple proprietory title of the ancient Jenmies over their large Chieftainships, has entirely revived and was not doubted by the early authorities of Malabar - Mr. Baber, Vaughan &c. - and it has been practically acknowledged by prescriptive usage ever since.

Para 43 Joint Commissioners Report 1792/93.

The

6. The hereditary chieftain Proprietor of the Nambalacode Umshom, as described in Para: 4. was the Nambalacode Varmaver. During the first years of our Vile Ramcatty Varmaver administered the entire Umshom in the manner usual with Malabar Jenmies.

7. On the death of this individual he left a Nephew, Vellookutty Varmaver & two Sisters (one Survives, Sabady) The former came into management of the property and he, if not, as is freely alleged, bodily infirm, was so little fitted for his position that he allowed the property to become overcharged with debt & got into great difficulty, the source of which arose out of transactions with the wood Contractors who leased the forests of the Nambalakode Umshom. The Varmaver then got into pecuniary & mortgage relations with

with his immediate & powerful neighbour,
the Nellamboor Rajah, which soon ended
in an entire transfer of his property.—

8. In satisfaction of a Decree
held by one of the Forest Contractors, the
greater part of the property was sold
in 1835 and was bought in by the Nellamboor
Europeans who had likewise a mortgage
claim thereon. Further deeds were executed
transferring the entire property to the
Nellamboor Rajah, the Vaimaver Coovenhar
to become a Pensioner of the Nellamboor
Rajah. In virtue of this Decree and
subsequent deeds the Rajah of Nellamboor
has for upwards of 20 years been in
possession.

9. In the year 1844 Kelloo Kutty
Vaimaver died leaving a sister Soobady
& her son about 10 years old, these two the
Rajah of Nellamboor removed out of the
ancient

ancient home in Nambalacode & took
down to Nellamboor, where the child, the only
heir, died of fever about 1845. His mother
Soobady, the last of the race is now living
with the Rajah, nominally of her own free
will, but circumstances leave little doubt
that broken-hearted, lone, ruined & worn out,
she has no option and after so many years
spent at Nellamboor, possibly in virtual
duress, she expresses her wish there to
live & die. The removal of the boy Govinda
Kutty from Wynaad 3500 feet above the
sea to the feverish jungles of Nellamboor
accounts sufficiently for his short life.

10. The circumstances of the case
have been dwelt on at length with a view
to shewing the prospects of our present claim
to dispossess the Nellamboor Rajah of a property
worth a lack of Rupees at least.—

11. For a sum less than 10000 Rs he
bought

bought at auction the greater part of the property and, I believe, he has since driven a cruel bargain with a falling family which he had got into his clutches, ignorant, perhaps half witted creatures; but the question is what are the legal features of our claim?

Sold in satisfaction of a Decree.

1st We might dispute the title of the ancient Jemmy to the forests and unappropriated waste by right of Conquest in 1799. Were this step taken or this title asserted, it would affect equally all Jemmies in Wynaad. It is a step which could not be lightly undertaken-one I should earnestly deprecate at present.-

2ndly We might put forward the right to escheat it as was proposed by Mr Chatfield in 1849 & bring a suit to cancel the sale of 1835. Here we are met with the fact that there is still a surviving member of the family entirely in the interest

interest of the Rajah of Nellamboor & that the Rajah of Nellamboor purchased by for the greater part of the property at a Public Sale in satisfaction of a Decree of Court No 279 of 1830 on the file of the Zillah Court of Tellicherry.

Both points against which it will be hopeless to contend.

12. First as regards this sale by the District Moonsiff of Manantoddy. It has been impugned first as informal, but under Clause 4th Section 53 Regulation VI of 1816 its informality will not set it aside, and the alleged informality does not appear to me grave- namely that of selling Land before all personalities had been disposed of- this was optional with the Judicial Officer

It has been impugned 2ndly on the ground that the sum realized x secrecy with which the sale was effected give strong presumption of Collusion. It is true Rupees 9751 x do not represent its present value, but it would

x Amount realized at the Public Sale.

be

be difficult to establish with a record such × N.B. The record of transaction relating to the execution of the deed.
as we have against us the want, either
inadequacy of Consideration or secrecy as
things went then in Wynaad. The sale was
postponed more than once because no
adequate offer was made & the offer of
9751 Rs seems to have been obtained only
from the largest mortgagee, the Nellamboor
Rajah - the next highest offer was under 2000 Rs
From the Proceedings the reverse of secrecy
might easily be established. In short this
Decree could only be set aside by Regular
suit and I am satisfied that I could not
make out a Locus Standi -

13 Again as regards the portions
of the property which were not included
in the Sale. It was thought these might
become an escheat. These are likewise
in the Nellamboor Rajah's hands; and
during the 20 years that he has had

the

the Members of the family in his power,
he has taken the necessary measures to
secure his title to these, first by purchase
from the deceased Varma and lastly from
the now only surviving Heiress, who is an
Inmate of his house, his Pensioner &
Voluntary Prisoner - These deeds could only
be disputed on the ground of imbecility
& incompetency of the persons who executed
them, viz the late Kelo Kutty Varma and
& of the surviving Sister Subbay

14. On this point there is abundance
of general assertion. There exists a tradition
that for generations this family had been
Cursed in the madness of its principal
Members and many allege that Kelo
Kutty Varma was mad or half-witted.
There is no doubt that the property was
foolishly squandered & the man himself
thoroughly duped, but I do not consider

that

that any respectable legal plea of the kind could be raised after a lapse of 25 years, the more so when we are met in limine with the fact that his transactions were during his life time upheld by Civil Courts, that the plea was never used to evade heavy liabilities & difficulties during a life time, the latter years of which at least were spent in litigation before public tribunals.

15. The last survivor Subadry is decidedly weak & is likewise alleged to be mad & incompetent to execute any deed & this impression is aggravated by the fact that the Nellamboo Rajah will not allow her to go beyond her own precincts. She of course is made to represent herown unwillingness & has evidence on oath of the general belief that she is mad or crazy, but I have had her communicate

with

with personally by my Special Assistant, 5th March 1857
whose communication is enclosed for your perusal. She is certainly a weak excitable creature. She may be half witted and a constitutional inability to abstraction may have been aggravated by the circumstances of her sad story, but evidently she has had much periods more than double our ability to establish before a Court of Justice where the interest we have at stake will cause our pleas & evidence to be received with great caution. Such a degree of imbecility irrespective of natural stupidity, ignorance, broken heartedness at the time of executing any deed which may be produced as of her execution, as shall invalidate that transaction.

16. The pleas of threats & undue advantage would be met as far with equal success

by

by parties so powerful & unscrupulous as the Nedamboor Rajah's Kasia Men &c.

17. Only after establishing some such ground could we constitute Subady a ward & assume the management of even the portion of the property not included in the sale & that for the life time of Subady only, leaving the question of eventual escheat to be decided after his decease.

18. On the whole I would not urge the Government to proceed in trials on such grounds as could be made out of this case.

I have the honor to be,
Sir,
Your most obed Servant,
J. Robinson
Acting Collector

40 Pro. 4

P.S.

P.S.

With reference to the closing part of the Board of Revenue Minutes of 6th Instant, I fear a good deal of misapprehension exists as to the extent & value of Forest in Malabar over which the newly formed Establishment will be able to take a jurisdiction

Rec'd 13 May 1857

Copy to Govt 13 May '57

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Revenue Department

No 1580

No ___ Extract from the Proceedings of the Board of Revenue dated 13th May 1857. No 1500

Read letter from the Acting Collector of Malabar dated 6th April 1857.

In Cons 15th May 1857.

(Here enter No 38)

Resolved that the above letter be laid before Government, with reference to Extract Minutes Consultation 29th September 1856 No 1754, P.W.D. (Public), and 11th March 1857, No 215, Revenue Department.

2. In this communication the Acting Collector reports on the claim of the Nellumboor Rajah to a tract of from 120 to 150 Square miles in the Wynaad Talook of that District.

3. Of this large tract the Nunn-bala-code Vamaver family was for generations the acknowledged hereditary Jemmy in the fullest sense of the term. In 1785 Tippoo seized the Wynaad Country and on it's compulsory cession by the Cotiote Rajah &c. tacked it from Malabar, to which however it

it reverted on the Conquest of Mysore in 1799. In the interval it was in a state of rebellion, and since its reversion the peculiar land tenures of the District have revived and been acknowledged.

4. During the first years of British rule in Malabar, Ramooty Varmaver was the Jemmy of the Numbalacode Amsham. This person died, leaving a nephew Kellorkutty Varmaver and two Sisters as his surviving representatives.

5. The Nephew came into the management of the property and of [illegible] half-witted, was so little fitted for his position that he became involved in pecuniary difficulties. One source of his embarrassments arose out of transactions with Wood Contractors who leased his forests, and the result of his difficulties was that he became involved in pecuniary relations with the Nellumboor Rajah.

6. In 1835 the greater part of the property was sold in satisfaction of a Decree held by one of the Forest Contractors and was bought by the Nellamboor Rajah, who also

also had a mortgage claim on the land, and who by this purchase and by subsequent transfers possessed himself of the entire tract and has held it for upwards of 20 years.

7. Kellorkutty Varmaver died in 1844, leaving a Sister - one of those already mentioned - and her Son a boy of about 10 years of age - whom the Nellamboor Rajah removed to Nellamboor where the Son shortly after died. The Sister, the last surviving member of the Family, now remains under the protection of the Nellamboor Rajah nominally of her own free will.

8. Mr Robinson discusses the several modes in which the Government could assert its claims to the tract in question.

9. The first of these is by denying the title of the Jemmies to the Forests and unappropriated waste, in virtue of the conquest of the Country from Tippoo in 1799. This claim however could scarcely be asserted after so long a lapse of time - it would, as Mr Robinson remarks, affect every

Jemmy

73

Jenny in Byrnaad, and the Board think
would be equally unjust and impolitic.

10. The second mode of action mentioned by Mr Robinson is to escheat the property and endeavour to annul the sale in 1835 by a Civil Suit. To this course also there are insuperable difficulties. The Government were indeed no parties to the suit, but their reversionary claim was then distant. A period of 22 years has elapsed since the sale. a Member of the family still survives and is in the interest of the party in possession. The greater portion of the property was purchased at a Court Sale for a price below its value no doubt, but still by far the highest offered after several adjournments. As the Government were not parties to the Suit which ended in the sale, and had a reversionary interest in the property, an action to set the sale aside would doubtless lie, but the Board see no prospect of a successful issue.

11. As regards the property acquired otherwise than by sale from Kellookutty Ummaer, who has been dead nearly

74

nearly 13 years, the difficulty of disputing the validity of the transfers would be very great. The plea of imbecility would not be easy to establish now and would be met by the argument that it had never been urged by the parties principally interested to evade heavy liabilities. It is not clear from the Acting Collector's letter what portion of the property was obtained by transfers from the surviving sister.

12. On the whole the Board concur with Mr Robinson that the assertion of the claims of Government at this time is not likely to be attended with success.

13. If however Government consider it expedient to try their claims, the best course would seem to be to constitute Lobaby, the surviving sister and last representative of the Family, a Ward of Government under Section II, Regulation V of 1804, and at once assert her claims to all the property not included in the Court Sales. This measure would bring to light the titles on which the Nellumboor Rajah's rights are founded, and Government could

could be guided by the information gained as to the course to be pursued in asserting their own claims.

14. The adoption of any step of this kind will of course depend on the fact of the property paying revenue to Government so as to bring it within the scope of Regulation V. of 1804.

15. As already remarked, however, the Board doubt whether the Melumboor Rajah's claim can now be successfully disputed. The Acting Collector has not stated specifically whether the assessment of any portion of the lands referred to being brought under cultivation, Government will be entitled to assessment thereon. This information Mr. Robinson will furnish as soon as possible.

16. In a P.S. to his letter Mr. Robinson states that he fears much misapprehension exists as to the extent and value of the Malabar Forests over which the Conservancy Department can exercise control. Mr. Robinson does not mention the probable extent of the Government

Forests

Forests but this information has probably been furnished to the Conservator.

(A true Extract)

J. A. Smith
Dy Secretary.

To

H. Forbes Esq.
Dy Secretary to Government.
Revenue Department.

Ed
R Nortbrym

No 254-857.

Memorandum on

Letter from Mr W. Robinson, Acting Collector of Malabar 6th March 1857.

and

Extract from the Proceedings of the Board of Revenue 13th May 1857.

1. In these papers the Acting Collr of Malabar, and the Board of Revenue profess to reply to certain references made by Government for information respecting the Teak Forests in the District of Malabar.

2 There are two questions connected with the subject which will need to be separately noticed.

1st The right of Government to all the forests in Wynaad.

2nd The right of Government to that particular tract of Forest land obtained by the Nellumboor Rajah from the Nambelacode Warriar family.

3 The first question originated in a letter from Mr J. Williams, formerly Contractor for

Recd. 14th March 1857.
Regd. No. 30 Cert. to Collr
Rec. from Regd. Letters
Under Cover
City 25th Cons.

Copy wide Lr to Collr of Malabar Dated 13th March 1857. No 254

Recd. in Office 13th May 1857.
Regd. No. 58 Cert. to Collr
Cert. from Regd. No.
Cover
City 25th Cons.

Copy of the Proceedings of the Board of Revenue

Dated 13th May 1857.
Rec'd 15th
2 Enclosures returned
No 880. 11th August
1857

Submitting a letter from the acting Collector of Malabar reporting on the claim of the Nellumboor Rajah to a certain tract of the Wynaad Taluk as his Private Property, with the Boards suggestion as to the manner in which the claim of Government to the tract in question

Recd. 14th March 1857.
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for Sleepers to the Railway Company, who proceeded first ~~[illegible]~~ to the Goomsoor Country, and afterwards visited the ~~[illegible]~~ Forests on the western Ghauts with the view of eventually obtaining permission to work them. In his letter to the Collector of Malabar dated 2nd November 1855, written after a visit to the forests of that District, Mr Williams gave a detailed account of what he had observed during his progress through those forests; and amongst other things he alluded to the great waste of timber which was taking place from the uncontrolled and unsystematic ~~[illegible]~~ Method pursued by the people of the Country in working the Jungles.

In their Order of the 30th January 1856 No 2 the Government expressed themselves fully alive to the waste committed in the Forests under this Presidency, in the absence of any sufficient System of Conservancy, ~~and believed that there was~~

Ref: Pn: 6: 30th Jany 1856 No 2

~~no systematic operation in Mr Williams' description of the practice of the wood cutters in the Wynaad forests~~, but before deciding on any measures for checking those practices, they required the Collector to furnish a general report on the subject, showing the probable extent of the Government Forests, with his own opinion as to the means to be adopted for their Conservancy. The Government at the same time recorded their belief, that the rights of Government in that direction had been much infringed, and that whereas the whole of the Forests of Wynaad belonged right fully to the Government in succession to the Dynasty Rajah, private claims founded on no good bases, had been allowed to Spring up, and had in some cases been even officially

officially admitted to the great en-
injury of the rights of Government.
The Collector's attention was accordingly
called to this subject also.

5. This expression of the belief
of Government appears, from a Memorandum by Mr. Donkin, to have been
based upon information obtained
from Mr. Chatfield, who had previously
served — — — — — — — — in
Malabar, and was at the Presidency
having just then returned from furlough.
Mr. Chatfield seemed to say that probably
the whole of the Wynaad forests
belong to Government, but that numer-
ous private claims had been made,
and had been either admitted or not
resisted, so that the right of Govern-
ment had been very much encroach-
ed on and nearly annihelated.

6. Shortly after the enquiry
made by Government respecting the
Timber

From Ch. Engr. 23 Jany 56 ch 486.
F. in C. 19 Feby 56 ch 194.

Timber forests of Malabar, they received
a letter from the Chief Engineer dated 23rd
January 1856, giving Copies to one from
Captain Campbell, Assistant Executive
Engineer on the Neilgherries, reporting
that he had taken up on behalf of
Government on account of the
Jowkutalla works, a lease of a forest
in Wynaad — — for two years, being
the remainder of the term for which
the lease was granted by the Nellum-
boor Rajah to a Parsee named Eduljee, at
at a rent of Rs. 2,300 —
per annum. In their Resolution
of the 19th February 1856, the Government
confirmed Captain Campbell's
proceeding, but to enable them to
decide on its propriety, they desired
to have the opinion of the Collector
respecting the value of the Forests,
and the title of the Lessor, observing
with reference to the latter point,
that

that they had lately been received
to order that enquiries should be made.

7 Mr Clarke, Collector of Malabar, replied to this last reference through the Chief Engineer he believed that the Forests in question were purchased by the Zeroe land of Pettah: -ahsor at a Sale, made in execution of a Decree passed in 1830 by the Zillah Court of Tellicherry against the Nambadee Cota Warriams. This property was represented to extend far into Mysore on the east, to the Cavecana river on the South so as to cover a large tract in Wynaad, and to include the forests leased by Captain Campbell.

From Mr Clarke Collr of Malabar 25th July 1855 No 2187.

8 Mr Clarke further referred to a "report on the Districts of Malabar and Canara" written by Mr Sullivan to

to Government, in which that gentleman questioned the right of the two Warriams, and consequently of the Zeroe land, to the tract between Wada-cottah and the Cycara river, and urged strongly on Government the propriety of some steps being taken to try and determine the question of the right to this tract as between the Cudavers of the Hills and the Zeroe land. Mr Clarke could not say that any notice was taken of this proposition, or what proceedings resulted from it. In Mysore, Mr Clarke said that the Zeroe land's claims had been successfully resisted, and he conceived that had it been brought to trial in Malabar, it might have shared the same fate; but as no proceedings had been taken in the matter, he presumed, that this long forbearance would

would be construed by the Courts into a tacit admission of the claim and he feared, that a case could not be produced which would upset the purchase of the Eroo land under the Courts deed of sale. He had however applied to the Tellicherry Court for further information, and had moreover taken measures to ascertain the value of the forests, and he promised to address the Government again.

9. In Extract Minutes Consultation 27th August 1856, the Government agreed to await the further report promised by the Collector of Malabar, and they at the same time called the attention of the Chief Engineer to the order of 3rd January 1856, requiring information as to the rights of Government in the Wynaad generally forests. They also resolved to apply to the Commissioner of Mysore for

Date 27 Aug/56 1/52

for information as to the proceedings of Tallan to resist the Nellumboor Eroo land's claims to Forests in that country.

10. In a letter dated 9th September 1856 the Commissioner of Mysore forwarded, in reply to this reference, a letter from the Superintendant of Bangalore, in which that Officer gave a full account of the nature of the Nellumboor rajah's claim, and the manner in which it had been resisted. The claim had reference to the right of cutting Sandal wood in certain villages of the Goomsur Talook in the Mysore Country, and involved likewise the right to the Jenmy or proprietary of those Villages. It will be sufficient in this place to say that the Rajah's claim was founded on the purchase of the proprietary rights at a Sale held in 1835 in pursuance of a decree passed in 1830 by the Wynaad Moonsiff, who it was asserted had jurisdiction in the case, while, on the other hand, it was maintained as one amongst other grounds

grounds set up for the defence, that the Soondal wood tracts were part of the Mysore Territory. In passing order on this communication, the Government in Extract Minutes Consultation 29th September 1856, instructed the acting Collector of Malabar, through the Board of Revenue carefully to examine the grounds of the Nellumboor Rajahs' claims to the forests which he holds in the Wynaad, and submit his opinion on it as well as on the means to be taken for enforcing the rights of Government, if he should see reason to believe the claims of the Rajah to be unsound, wholly or in part. It was observed that the Decree of the Court which led to the sale & on which he founded his claims, was not binding on the Government, as they were no parties to the suit; and that in order to establish his own title, the Rajah must prove that of the Incumbrancers of Nunhalu Cottah to whom it was alleged the forests belonged prior to the Court Sale. It was also remarked, that if it should appear after careful Enquiry, that the forests really belong to Government, no lawful means should be left untried to establish the right and recover possession.

Mc 29 Sep 1856 to 1574.

11. On the 11th March 1857 Government called the attention of the acting Collector

Collector of Malabar through the Board of Revenue to the Order of the 29th September 1856 regarding the Nellumboor Rajah's claim to the forest he holds in Wynaad, as well as to the order of the 3d January 1856 No 2 in which information was sought in respect of the value of the Forests of Wynaad, observing that the proceedings of the Conservators of Forests would be much influenced by what the Collector might report.

Acting Collector's private letter 6 March 1857 73

12. The letter of the acting Collr of Malabar dated 6th March 1857 refers more pointedly to the tract leased by Captain Campbell. The Forests, the Logs are at the foot of the Hills in the direction of Eppaseendog, and belong to the Nambalacode Swaroom of the Wynaad Taluk. The last Member of this family, a female, is wife to the Nellumboor Rajah, who has possessed himself by

by sale of Court and other means
of the entire property of the family, and
is unquestionably the party in occupation.—
Mr. Robinson entertains no doubt of the
right of the Rajah to lease the forests.
He is unable to form a judgment of
their value — — — — and thinks
that until the right of Government
to enter on possession — — —
should be established, no measures
to ascertain that point should be
undertaken. He adds "The forests as
being private property, no measures
of public conservancy could be
introduced in consonance with the
thorough recognition of private right
now existing in the Province."

13. The last proceedings of the Board of Revenue purport to reply to the orders of the 29th September 1856 regarding the Nellumboor Rajah's claims to certain forests

L. Pro: Board of Rev: 13 May 1857

90 (57) 67.

forests in Wynaad, — — — — —
— — — — — — — — — —
— — and to the order of the 3d January 1856
regarding "the Wynaad forests generally"
The letter from the acting Collector of
dated 6th April 1857 inclosed in the Boards Proceedings
Malabar refers to both orders, but
purports to report only on the claims
of the Nellumboor Rajah on the Wynaad
forests.

3 Jany 1856 No 2
29 Sept — 1756
11 March 1857 — 245

(14.) It would seem from these papers, that the entire possession of the Nellumboor rajah in the Wynaad country consists of a tract of Forest land of from 120 to 150 square miles in extent; of this large tract it is said, that the Numbalacode Warriar family were for generations the acknowledged hereditary "Jenmy" proprietor. In 1785 Tippoo seized the Wynaad country and detached it from Malabar, but it reverted to that District on the conquest

of

of Mysore in 1799, and ever since, the peculiar land tenure of the District have received and been acknowledged. Of the Nundabancode family there is but one female member surviving, and now living under the protection of the Nellumboor Rajah. The whole of this forest tract has come into the possession of the Nellumboor rajah, partly by purchase in 1835 when the greater part of the property was put up to sale in satisfaction of a Decree of Court, and partly by transfers since obtained from the family.

15. The modes in which the Government could assert its claims to the tract in question are represented by the acting Collector and discussed by the Board of Revenue. These are,

I. "First, in regard to the Forests acquired by purchase."

By

1. By denying the title of the Farmers to the forests and unappropriated waste in virtue of the conquest of the country from Tippoo in 1799.

2 By escheating the property, and endeavouring to annual the sale in 1835 by a Civil Suit.

II. "Secondly, in respect of Forests acquired otherwise than by purchase."

3. By distributing the Validity of the transfers made by the last male member of the family previous to his death.

16 The Board point out the difficulties which beset each of these modes, and finally agree with the acting Collector that the assertion of the claims of Government at this time is not likely to be attended with success. One other mode suggested itself to them that of constituting the last representative of the Family, now with the Nellamboor Rajah,

a

a word of Government under Reg V of 1804, and asserting her claims to all the property not included in the Court's order. To this Course also there were difficulties, and on the whole the Board doubt whether the Nellumboor Rajah's claim could now be successfully disputed.

17. In Mr Robinson's letter of the 6th April 1857 reference is made "to para 43 of the Joint Commissioners' report of 1792/93" and to a proposition" made by Mr Chatfield in 1849 to escheat these forests", but neither of these papers on the records of Government, is forthcoming, nor, from the absence of the date can any clue be found to Mr Sullivan's report to Government referred to in Mr Chartier's letter of the 25th July 56. The want of these papers is of little consequence, as, in a compilation on the Teak forests of the Tenasserim provinces made by Dr Falconer under orders of the Government of Bengal is included a history of all the forests of India, and among st the number that of the

Vide p 98 of the Thesis.

Ext. from Records of Bengal Govt No IX

the Malabar forests is given. This report shews that, with the exception of three forests which escheated to Government on the death of the Zamorin Chenat noir in 1802, all the forest tracts have been regarded by all the authorities who had occasion to write about them as the property of private proprietors, and that this view had frequently been adopted by the Madras Government and by the Honorable Court of Directors. The Nellumboor Rajah is spoken of as in these papers an extensive Forest Proprietor, one fully alive to the value of his forest possessions & who has shewn great interest in their preservation. At page 208 of this compilation will be found a Statement of the number of Teak Forests in the province of Malabar, and the number of persons by whom they are held. It will be seen that there are in all 473 forests having 67 owners, of which three forests only belong to Government. In Wynaad alone,

page 173 top-181-183-184 201-209-212-213. -223-237.

alone, there are 40 forests belonging to proprietors, and [illegible] by Mr. Robinson, observes, that "if Government "asserted its title to the Jenny of the "Numbelacode forests on the plea of "Conquest, the same would affect [illegible] "equally all Jenmees in Wynaad."

para 11 of letter 6th April 1855 No 38.

8. The acting Collector states, and the Board quote the Statement, "that much misapprehension [illegible] prevails as to the extent and Value of the Malabar Forests over which the Conservancy Department Can [illegible] exercise Control". By the reports referred to it appears that the Government interest in forests is very limited in Malabar, they have only three forests, and these at the date of the report in 1839 contained no more than Seven hundred trees.

The

9. The Report of 1839 was framed by Mr. Underwood then Principal Collector of Malabar after Considerable research, or as he describes it "after Consulting the Voluminous records in the department, from the period the Country was ceded to the Company" for the express purpose of exhibiting at one view a Statement "respecting the Forests of Malabar from the period they Came into our possession up to the present time." It is not likely that much additional information, especially as regards private rights will be forthcoming, and under this view [illegible] it remains to be Considered whether the information called for on the 3rd January, 1856 No 3 as to "the right of Government in all the Wynaad forests in succession to the Cychee royals", should

Still

still be obtained, or whether it
would not be sufficient to refer
the Conservator of Forests to the
printed Collection, above alluded
to, as containing all the informa-
tion as yet obtained respecting the
Malabar forests.

The claim of this Government to
the forests sold by the decree of the Wynaad
Moonsiffs Court appears to stand on differ-
ent ground from that successfully
asserted by the Mysore authorities - the
forest to which they laid claim were situ-
ated in the Mysore Territory, and therefore
were not within the jurisdiction of the
Wynaad Moonsiff, and could not
legally be sold under a decree of his
Court. Moreover it will be remarked
that the proceedings in Mysore were
taken within a limited time whereas

we

we have allowed years to pass
without dissenting from the Courts
act.

It appears to me quite
clear that we can do nothing
further in this subject in
respect of asserting any pre-
tending claim on the part
of Govt.

4

In respect of the Abstract of
the K.J. Rec. appear to me very
slipshod papers - There is not the
slightest attempt to get at the origin
of the Malabar proprietors right
but every is contented with vague
declarations that they have possessed
the woods of the forest for Generations
It is to be observed that extensive tracts
have been carved out of Malabar
Canara since it came into our possession
in 1792 - The practice is a legal one
& I do not perceive that the Govt Pleader
Govt Pleader at the Sessions of Malabar
has Report the Proceedings of the Collector
in Regard to the Boundaries of the Land

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Rev 1857 (Dep.)

Wynaad Teak Forest Conservancy

To be Kept with
E. Min. of Cons.
of 11 August 1857
N° 805

Memorandum on
the Wynaad teak
Circulated 21 July
1857

11/8/57 to 3/58

C21 "July Ch.l Any.t R.b.t

100 C. R. D.

68

N° 805.

Extract from the Minutes of Consultation
Under date the 11th August 1857.

Read the following papers.

From the Actg. Collr of Malabar.
(Received 6th March/57 N° 37.)

Extract from the Proceedings of the Board of Revenue
(Received 13th May/57 N° 1560.)

In these papers
the Acting Collector of
Malabar and the Board
of Revenue reply to cer-
tain references made
by Government for in-
formation respecting
the Wynaad Teak For-
ests in the District
of Malabar

questions connected
with the subject
which will need to
be separately noticed.

1st. The right of Govt
to all the Forests
in Wynaad.

2nd. The right of Govt
to that particular
tract of Forest land
obtained by the Nel-
lumboor Rajah from
the Numbalacode
Warriar family.

3. The first question
arises in a letter from
Mr. J. Williams, for-
merly contractor for
sleepers to the Railway
Company

Company, who proceed-
-ed first to the Coorum-
country, and afterwards
visited the forests on
the western ghauts with
the view of eventually
obtaining permission
to work them. In his
letter to the Collector
of Malabar dated
5th November 1833, writ-
-ten after a visit to the
forests of that District,
Mr. Williams gave a
detailed account of
what he had observ-
-ed during his progress
through those forests,
and among other

things he alluded to 103
the great waste of
Timber which was
taking place from
the uncontrolled and
unsystematic method
pursued by the people
of the country in
working the jungles.

4. In disposing of
these papers the Govt
expressed themselves
fully alive to the
waste committed
on the Forests under
this Presidency in the
absence of any suffi-
cient system of conser-
vancy; but before
deciding

6 M. C. 3rd Jan 1856 No 2.

104 60 Canara 59 3

(10) deciding on any measures
for checking these prac-
tices, they required the
Collector to furnish a
general report on the
subject, shewing the
probable extent of the
Govt Forests, with his
own opinion as to the
means to be adopted
for their conservancy.
The Govt at the same
time recorded their
belief that the rights
of Govt in that prov-
ince had been
much infringed;
and that, whereas
the whole of the
Forests of Wynaad

belonged rightful-
ly to the Govern-
ment in succes-
sion to the Rajahee
Rajah, private claims,
founded on no good
basis, had been al-
lowed to spring up,
and had in some cases
been even officially
admitted to the great
injury of the rights
of Government. The
Collector's attention
was accordingly
called to this
subject also.

The

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(61)

The second quer-
tion arose out of the Chief
Engineer's letter of the 23d
January 1856, giving cover
to one from Captain Campbell,
Assistant Executive Engineer
on the Neilgherries, in which
that Officer reported that
he had taken up, on be-
half of Government, an
account of the Sacketallah
Works, a lease of a forest
in Mynaad for five years,
being the remainder of
the term for which the
lease was granted by the
Nellumboor Rajah to a Parsee
named Edaljee Sait, at a
rent of Rs 2,300 per annum.
In their Resolution of the
19th February 1856, the

Government

From Chief Engr 23d January 56 No 35
Ex Minute Govt 19th Feby " No 194

Government confirmed last Campbells' proceeding, but to enable them to decide on its propriety, they desired to have the opinion of the Collector respecting the value of the Forest, and the title of the Lessor, observing with reference to the latter point, that they had lately seen reason to order that enquiries should be made.

From Mr Clarke, Coll.r of Malabar 25th July 1856 No 287

Mr Clarke, Collector of Malabar, replied to this last reference through the Chief Engineer. He believed that the Forests in question were purchased by the Tirovaud of Tellicherry at a sale made in

in execution of a decree passed in 1830 by the Zillah Court of Tellicherry against Mr Newboold a Cutcherry man. This property was represented to extend far into Mysore on the east, to the Pay carra river on the South, to cover a large tract in toyn and, and to include the forests leased to by Captain Campbell.

Mr Clarke further referred to a report on the Districts of Malabar and Canara" written by Mr Sullivan to Government, in which that Gentleman questioned the right of the warriour, and Consequently of the Tirovaud

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to the tract between Nada
cottah and the Pycara river
and urged strongly on
Government the propriety
of some steps being taken
to try and determine
the question of the right
to this tract or between
the Todavars of the Hills
and the Tiroopauds. Mr
Clarke could not find that
any notice so as taken of
this proposition, or what
proceedings resulted from
it in Seringapore, Mr Clarke
said that the Tiroopauds
claim had been successfully
resisted, and he conceived,
that had it been brought
to trial in Malabar, it
might have shared the

same

110 65 63 Evidence. 60 6

same fate, but as no
proceedings had been
taken in the matter, he
pronounced, that this
long forbearance would
be construed by the Courts
into a tacit admission
of their claim, and he feared
that a case could not
be produced which would
upset the purchase of the
Tiroopauds under the Courts
deed of sale. He had however
applied to the Tellicherry
Court for further information, and had moreover taken measures
to ascertain the value
of the parcels, and he
promised to address
the Government again.

E. M C 27 Augt/56 N 1527.

I am &c
Extract Minutes
Council Nation 27th August
1856

1856, the Government agreed to await the further report promised by the Collector of Malabar, and they at the same time called the attention of the Chief Engineer to the order of 3d January 1856, requiring information as to the rights of Government in the Teyrnaad forests generally. They also resolved to apply to the Commissioner of Mysore for

(64)

for information as to the proceedings taken to resist the Nellumboor Tirooprandi's claim to Forests in that Country.

In a letter dated 9th September 1856 the Commissioner of Mysore forwarded, in reply to this reference, a letter from the Superintendent of Bangalore in which that Officer gave a full account of the nature of the Nellumboor rajah's claim, and the manner in which it had been resisted. The claim had reference to the right of cutting sandal wood in certain villages of the Goondul Talook in the

the Mysore Country, and involved likewise the right to the Jenmy or proprietary of those villages. It will be sufficient in this place to say that the Rajah's claim was founded on the purchase of the proprietary right at a sale held in 1833 in pursuance of a decree passed in 1830 by the Zynaud Moonsiff, who it was asserted had jurisdiction in the case, while, on the other hand, it was maintained, as one amongst other grounds set up for the defence, that the sandal wood tracts were part of the Mysore Territory.

In

E.M.C. 29 Sept/56
No 1754.

In passing orders on this communication, the Government instructed the acting Collector of Malabar, through the Board of Revenue, carefully to examine the grounds of the Nellumboor Rajah's claim to the forests which he holds in the Cuy naad, and submit his opinion on it, as well as on the means to be taken for enforcing the rights of Government, if he should see reason to believe the claims of the Rajah to be unsound, wholly or in part. It was observed that the Decree of the Court which led to the sale, and on which

the

to founded his claims, was not binding on the Govern-ment, as they were no parties to the suit, and that in order to establish his own title, the Rajah must prove that of the warriaur of Nambala Cottah to whom it was alleged the forests belonged prior to the Court vale. It was also remarked that if it should appear after carefull ingairy, that the forests really belonged to Government, no lawfull means should be left untried to establish the right and recover possession.

10. On the 11th March 1857 Government called the attention

attention of the acting Collector of Malabar through the Board of Revenue to the order of the 29th September 1851 regarding the Nellum-boor Rajahs claim to the forest he holds in Wynaad, as well as to the order of the 3d January 1851 No 2 in which information was sought in respect of the whole of the forests of Wy-naad, observing that the proceedings of the conser-vator of Forests would be much influenced by what the Collector might report.

11. The letter of the acting Collector of Malabar dated 1st March 1857, and recorded

recorded at the head of these Pro-
-ceedings refers more point-
-edly to the tract [crossed out] reuter
by Captain Campbell.
The Forests, he says are
at the foot of the Hills
in the direction of Pepsa
caudoo, and belong to the
Nambalakode Unnohan
of the Wynaad talook.
The last Member of the
Nambalakood Vanooven
family, a female, is with
the Nellamboor rajah, who
has possessed himself,
by sale of Court and
other means, of the entire
property of the family,
and is unquestionably
the

the party in occupation.
Mr Robinson enter-
tains no doubt of the right
of the
Rajah to leave the forests.
He is unable to form a
judgment of their value
and thinks that until
the right of Government
to enter on possession
should be established,
no measures to ascer-
tain that point
should be undertaken.
He adds, "The
forests being private
property, no measures

of public conservancy

could be introduced

in consonance with

the thorough recogni

tion of private right

now existing in the

Province."—

17 The proceedings

of the Board of Revenue

dated 13th May 1857, also

recorded above, purport

to reply to the orders of

the 29th September 1851,

regarding the Nellam

boor Rajah's claim to certain

forests

Ex: Re: Board of

Rev: 13th May 1857

3th Jany. 1856 No. 2
29th Sept. " " 1754
11th March 1857 " 245

Nyraad p. 6 1

forests in Wynaad, and to the

Order of the 3d January 1856,

regarding "the Wynaad forests

generally." The letter from

the Acting Collector of Ma-

Malabar dated 6th April 1857,

enclosed in the Board's Pro-

-ceedings refers to both Orders

but purports to report only

on the claim of the Nellam-

-boor Rajah on the Wynaad

forests.

13 It would seem

from these papers, that

the entire possession of

the Nellamboor rajah in

the Wynaad Country consists

of a tract of Forest land

of from 120 to 130 square

Miles in extent; of this

large tract, it is said

that the Numbalacode

Warriar family was for

generations

generations the acknowledged
hereditary Jenmy proprietor.
In 1785, Tippoo Seized the
Wynaad Country and de-
tached it from Malabar,
but it reverted to that
District on the conquest
of Mysore in 1799, and ever
since, the peculiar land
tenures of the District
have ~~ceased~~ been ac-
knowledged. Of the
Numbalacode family there
is but one female member
surviving, ~~and the~~ living
under the protection of the
Nellumboor Rajah. The
whole of this forest tract
has come into the posses-
sion of the Nellumboor
Rajah, partly by purchase
in 1833, when the greater
part of the property was
put

121

(71)
(9)

122 September 8 / 72

put up to sale in satis-
faction of a Decree of
Court, and partly by
transfers since obtained
from the family.

5. The modes in
which the Government
could assert its
claims to the tract
in question are repre-
sented by the acting
Collector and discussed
by the Board of
Revenue. These are,

I. "First, in regard to
the Forests acquired
by purchase."

1 By denying the title
of

of the Princes to the
forests and inappropri-
ated waste in virtue of
the Conquest of the en-
Country from Tippoo
in 1799

2. By escheating the en-
property, and endeavour-
ing to annul the sale
in 1833 by a Civil Suit

11 "Secondly, in respect
of Forests acquired other-
wise than by purchase"

3. By disputing the Validity
of the transfers, made
by the last Male en-
Member of the family
previous

(70) 124

previous to his death.

15 The Board point
out the difficulties in
which best each of
these modes, and finally
agree with the Acting
Collector that the en-
assertion of the claims
of Government at this
time is not likely to
be attended with suffi-
cient other mode suggested
itself to the Board tha
that of constituting the
last representative of
the Family, now en-
with the Nellamboor

Rajah,

Rajah, a ward

of Government under

Regulation V of 1804

and asserting her

claims to all the

property not included

in the Court Sales.

of the adoption of

To this Course also there

were deffficulties, and

on the whole the

Board doubt whether

the Nellumboor

Rajahs claim

could now

be Successfully

disputed.

The

(73)
(71)

1926 16

The Government are

constrained to remark that the

reports of the Acting Collector

and the Proceedings of the Board

of Revenue are ~~altogether~~ unsatisfactory

unsatisfactory

meagre on the main points of

the question,

and do not in any respect an-

swer the requisition contained

in the order of the 3d January

1806 as to the right of Govern-

ment in the Wynaad forests

Severally. There is not the

slightest attempt to get at

the origin of the Nambalacode

proprietors, rights, and

~~claims~~ vague declarations

that the family has possessed

the Jenmi of the forest for genera-

tions, ~~details sufficient~~ where as it is notorious

that extensive usurpations

have been carried on

in Malabar as well as

in Canara since these

Provinces

Provinces came into British
profession in 1792.

17 As regards there-
fore the first question as
to the right of Government
to the Wynaad forests generally
respecting which it has
been said above that no
information has been afforded,
the Government resolve to
refer back the matter to
the Board. They request that
the Acting Collector may
be instructed to cause a search
to be made in the records of
his Office, commencing from
the earliest period, and to
submit all the information
that may be forthcoming,
and that the Board will
order a similar search
to be made into the
records of their own office

~~Lord~~

~~towards the same~~ to furnish
as full a report on the whole
subject as the materials
at their command may
enable them to do. The Board will
refer to the Report mentioned
by the two officers Mr. Innes
Sullivan's Report on the Wynaad
and Canara Districts
alluded to by Mr. Clarke
in his letter to the Chief
Engineer dated 20th July, 1806;
and the Joint Commissioners report
of 1792-93, as well as Mr.
Chalfield's proposition
to escheat certain forests
referred to in Mr. Robinson's
letter of the 6th April 1807.
It would seem desirable
also that Mr. Chalfield
and other officers long
acquainted with the history
and usages of the Country should
be consulted in

view to obtain from them such particulars and information bearing on the subject as they may possess.

In respect to the second question, which is purely a legal one, the Government resolve to forward the papers recorded above, and the correspondence entered in the Consultations noted in the margin, to the Government Pleader, with a copy of these Proceedings, in view to ascertaining his opinion as to the sufficiency of the Nellambur Rajah's title to the Wynaad forests obtained from the Nellambalacode Warriam family, and as to whether there are grounds now for asserting the rights of Government to those forests.

Pub. Dy. 26th Feby 1856 Nos 42. 43.
Do 2d Sept " — 3 & 5
Do 30th " — 64. 65

(63)

The Acting Collector states in the Postscript of his letter of the 6th April, and the Board quote the statement, that much misapprehension prevails as to the extent and value of the Malabar Forests over which the conservancy department can exercise control. From a compilation of the Teak Forests of the seven Provinces made by Dr Wallace under orders of the Government of Bengal which is evidently a history of the forests of India, and among them the Malabar ones, it appears that, as at present informed, there are only three forests belonging to Government, and these, at the date of the report in 1839, contained no more than seven hundred trees. The Government resolve therefore

(74)

Therefore to communicate the
views of the Acting Collector
and the Board to the Conservator
of Forests, and to refer him
to the Compilation above
mentioned for all further particu-
-culars.

JR

3 Copies to the Bd of Rev
with D Encls

3 — " — Conservator of Forests
with Copies of the
Bds Letters & Encls
& Letter from the
Collector —

1 — " — Govt Pleader with
Papers noted in
Margin of Bds

9-12-14

3.7.39

1302

R

Revenue 1857 Depart.
Cons. 11th August

No. 805

Extract Mins of Cons.
Dated 11th August 57

Rec. from Bd. of Rev. D/2nd
Q: M/58 C No. 1361 in l. 22 June/57
Pp. 34-35

From Govt. Reader S. No. D/26 March
1859 l. No. 519 in Cons.

Paying orders respecting the Wynaad Teak Forests in the District of Malabar.