M.R.O. 14—13,000—27-9-24.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. [illegible] Press Mis.

Dated [illegible] 19[illegible]

Not to be folded or roughly handled

No. 89. Read the following Proceedings of the Board of Revenue, dated 20th September 1862, No. 6,295.

Read the following letters:—

From R. E. MASTER, Esq., Officiating Director of Revenue Settlement, to R. A. DALYELL, Esq., Sub-Secretary to the Board of Revenue, Madras, dated 4th April 1862, No. 428-35.

SIR,

1. In their Order of the 31st January 1860, No. 166, the Government directed that the claims of the Uralars of three temples in the Ellurnad Amsam, and the Pulpalli Desam of the Kuppatapad Amsam in Wainâd to certain forest lands should be referred to, and fully reported upon by the Deputy Director of Revenue Settlement employed in that District.

2. I have now the honor to forward for submission to Government a report in original on the above claims with appendices, dated 20th February 1862, No. 18, drawn up by the Acting Deputy Director of Revenue Settlement, Mr. W. C. Stuart. No expression of opinion on the subject of the claims being called for from me, I content myself with transmitting the Acting Deputy Director's report and enclosures.

ENCLOSURE No. 1.

From W. C. STUART, Esq., Acting Deputy Director of Revenue Settlement, to H. NEWILL, Esq., Director of Revenue Settlement, dated Manantoddi, 20th February 1862, No. 18.

SIR,

1. Adverting to the Order of Government of the 31st January 1860, No. 166, and to the Director's proceedings of the 6th February following, No. 124, I have now the honor to submit the report therein called for on the titles of the Tirunelli, Trichelleri, and Pulpalli Devasams to the forest lands claimed by them in the Tirunelli and Trichelleri Desams of the Ellurnad Amsam, and in the Pulpalli Desam of the Kupatode Amsam.

2. TIRUNELLI DEVASAM.—The Tirunelli Devasam, or temple, is dedicated to the worship of Vishnu, the second person in the Hindu Trinity. It is situated in the Tirunelli valley, which is formed by the range of hills known as the Brimagerries and a spur of the western ghauts. The temple itself is a mean looking structure, and is by no means in keeping with its wide-spread fame. The walls are built of granite, but the roof is thatched, and the building generally is in a dilapidated state. The present temple is the remains of the former one, which was partially destroyed by fire during Tippoo's invasion. Near the temple are a few small streams, tributaries of the Bawalli river, in which the religious ablutions are performed.

3. I have been at some pains to trace the early history of this institution, to learn when and by whom it was founded, and how it acquired its property; but I have entirely failed to obtain any credible or authentic accounts, the only information available being what is to be gleaned from a few legendary tales. I am disposed to think that the information is designedly withheld and that its absence is not owing to any inability to furnish it. However, it appears from a tradition extant that Brama, the first of the Hindu Trinity, while on a visit to the earth, was one day roaming through the forests in Wainâd, when he suddenly came upon a most luxuriant looking gooseberry tree (*Nellika Vrutscham*) in full bearing, which he no sooner saw than it vanished from his sight. Being anxious to learn the nature of the mysterious appearance, he thereupon invoked the Supreme Deity to favor him once more with the sight, and accordingly the tree re-appeared, and under it this time was seen the god Vishnu, who, as soon as seen, became invisible. Brama then substituted there for the original an image of Vishnu, and consecrating the spot dedicated it to his worship; and it is said that on this spot the temple now stands; and hence its name "Tirunelli," which signifies the "sacred gooseberry tree;" and according to a Hindu record, when Parusuraman, the first king of Malabar, had re-claimed the country from the ocean and peopled it with immigrants from other countries; to keep them from returning to their native lands, in addition to changing their languages, customs, and laws, he decreed, that henceforth pilgrimages to Benares were unnecessary, and could be performed to Tirunelli; and were equally

meritorious as pilgrimages to the "Holy City." However absurd these legends may appear to enlightened minds, they are firmly believed in by the people, and I notice them merely to show the great veneration in which this temple is held. During all times of the year, but particularly during the months of Tulum and Khunabham (February and March) which are the most unhealthy months in Wainád, and more so in the locality in which the temples situated, pilgrims from all parts of Malabar, both high and low, rich and poor, men and women, visit the temple for the purpose of offering oblations, and fulfilling vows at the shrine of the Deity; to secure for the souls of deceased relatives spiritual benefits, and for themselves, immunity from temporal evils; and so meritorious is the act believed to be that while no other consideration would induce a native of lower Malabar to visit Tirunelli, at that time of the year, hundreds of pilgrims are seen wending their way thither at a great personal risk.

4. The affairs of the Devasam are managed by three Uralars, or trustees, who lay claim to divine appointment in succession to the last of the Brahamas, who delegated to them the charge of the temple and its concerns. The present incumbents of the office are, first, Naduvella Madatil Shri Kristna-dhasa-bhara thi-kel Manja-patti Swamiar; second, Thekke-Muthanan; and third Vadake Muthanan. The first is a Bramin ascetic, who resides at Trichur in Travancore, and beyond maintaining a local agent to watch on his behalf the interests of the temple, takes no active part in the administration of its affairs. The last two call themselves Bramins of Malabar of the Mussa caste, an inferior grade in the Bramanical scale (though their ancestors would appear to have emigrated many years ago from Coorg) and reside on the spot, and are virtually the managing trustees.

5. Appendix A, B, C contains a list of the whole of the lands claimed by the Devasam. They are situated in three Desams of the Ellurnad Amsam, viz., the Tirunelli, Trichellri, and Vemote Desams, and consist of forest and grass hills and paddy lands. None of these lands are in the list of escheats which accompanied Mr. Vaughan's proclamation of 1824.

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6. The lands situated in the Tirunelli Desam (Appendix A) are alleged to be the ancient Allodial property (jenm) of the Devasam; those in the Trichelleri Desam (Appendix B), to be held on Kanom right (a species of mortgage) of the Kotiote Rajah, and those in the Vemote Desam (Appendix C) to have been acquired by purchase.

7. Nos. 1 to 102 (Appendix A) are forest and grass hills, and Nos. 103 to 204 paddy lands. Of Nos. 1 to 102, 1 to 9 are hills covered with Teak, in some parts very thick, and other less valuable timber trees, and 13 to 102 are forest and grass hills suited for Coffee cultivation.

8. The whole of the lands in the Trichelleri and Vemote Desams (Appendix B and C) are paddy lands.

9. Though the question of resumption concerns the forest lands exclusively, I have considered it desirable to include the whole of the lands claimed in order to show the extent of the claim.

10. It will be observed that the forest lands prevail in the Tirunelli Desam alone. They have not yet been systematically surveyed, but on a rough estimate they probably cover an area of about 36 square miles, and occupy a tract bounded on the north by Coorg, on the east by Mysore, and on the south and west by Mansalbetta and the Bawalli river.

Vide Ward and Connor's Map.

11. In order to determine what steps the Government should take in respect to the forest lands, the questions which commend themselves for consideration seem to me to be, first, whether the lands belonged to the Pychee Rajah, whose possessions were confiscated for rebellion, or to the Devasam; secondly, should they be found to have belonged to the Rajah, then have the present claimants exercised such acts in regard to the property as imply undoubted possession and enjoyment on their part; and thirdly, has such possession resided in them unchallenged for a period that would, according to local usage or law, extinguish the previously existing right, whether of the Rajah, or of the Government, and confer on the possessors a prescriptive title.

12. For the disposal of the first question, it would seem to be sufficient merely to remark that the presumption of fact being that the lands belonged to the Pychee Rajah, the ruling power

would be justified in asserting their right to them as escheats, and leaving it to the claimants to establish the title they allege; but to deal with the question in an equitable point of view, it seems obvious that in the case of a public corporation like this one, the property belonging to it must have been acquired either by endowment by the ruling power, or by religious gifts from private individuals, or by purchase with its own funds, the latter supposition, however, being based on the assumption of the existence previously of property of another description; but none of these ways is alleged, and when pressed to state how the property was acquired, we are asked to accept as a sufficient answer to the question the bare assertion that it has been held from time immemorial. However, assuming that the property was acquired in any of the ways supposed, then seeing that the object of every endowment or purchase is to provide sources from which an income may accrue for defraying the expenses of the ceremonies, &c., it is reasonable to inquire what income was derivable from forest and grass hills at the period they were assigned to the temple, whenever that might have been. These forests have no intrinsic value, but have acquired an adventitious one. It is only of late years, when teak and other timber from Wainád found a market in Mysore, and individuals of sufficient capital and enterprise for working them were found, and when Coffee cultivation was introduced into Wainád, that these forests have become productive and yielded any return to their owners.

13. While then there is against the claimants the improbability of the Devasam ever possessing forest lands, on the other hand there are facts in support of the presumption that the forests belonged to the Pychee Rajah. The junior Kotiote Rajah, who is a descendant of the Pychee Rajah, in 1845, assigned the hills, &c., numbered respectively 1, 4, 5, 6, 7, 8, 9, 11, 13, 14, 23, 27, 33, 167, 184, 185, 190, 195 (Appendix A) to a Mr. Cowley, on a lease for 99 years subject to an annual rental of 40 Rupees. The senior Rajah, denying the right of his junior to hold any dealings with the property in his life-time, brought a Civil action against the latter, and Mr. Cowley to have the lease set aside. In this suit the Collector was made a party on his representing to the Court that the forests in litigation were escheated to Government. The Uralars were not associated in this action, nor did they ask to be admitted into it. This is an important point to be noticed, for, if the forests belonged to the Devasam, its interests were involved, and the Uralars would most assuredly have sought to be introduced into the suit. They cannot plead ignorance of the fact, for Mr. Cowley operated on one of the hills and resided there himself for some time. It is necessary to add here that the suit was not proceeded with but was dismissed on the motion of the Plaintiff. Besides, by an old account dated 1807, in which the names of the forests in Wainád are particularized, and the various hill products to be collected by the Government are specified, some of the forests claimed by the Devasam are entered as the property of the Pychee Rajah. Again, the Government so far back as 1826 asserted their right as an escheat to the Kudrakote forests, which are situated within the tract of country laid claim to exclusively by the Devasam and portions of which are still claimed by it, and have since exercised acts of ownership in them, apparently without even a word of protest from the Devasam. It is clear therefore I think that the whole of the forests in question belonged to the Pychee Rajah.

14. The second question proposed for consideration calls for few remarks. It will be seen from the documents adduced by the claimants that they have of *late* years exercised acts in connection with the forests presumptive of possession and enjoyment on their part, but the finding of this question in the affirmative does not, in my opinion, of necessity determine the final issue in favor of the claimants. Besides, I think it will be seen in conclusion that those acts were rather acts of usurpation than evidences of recognized possession and enjoyment.

15. The third and last question, the most important of the whole, I propose to sub-divide into two, for the purpose of more conveniently dealing with it, viz., first, has the possession apparent been of protracted duration; and secondly, has such possession, while it existed, been unchallenged, or in other words, has the possession been quiet and undisturbed.

16. On a reference to the column of remarks to Appendix A it will be found that none of the documents produced in support of the title of the claimants to the *forest* lands is of earlier date than 1851, eleven years ago. In the case of the teak forests (Nos. 1 to 9), the documents exhibited are two, bearing date 1026 (1851-52)

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and 1032 (1856-57) respectively. They are deeds of lease, renting to natives of Mysore the right to fell teak trees on payment of a fixed value. In the case of other forests, the documents shown are all of very recent date, none being of earlier date than 1857. They also are deeds of lease granted principally to Europeans, assigning portions of hills for Coffee cultivation on annual rents. In all the other cases of forest lands, no documents were produced; indeed the claimants have stated they have none to show, and the forests and hills are unoccupied, except in some cases by squatters. It will be seen therefore that the possession of the claimants, as indicated by their dealings with the forests, is of very recent date; indeed in many instances not before the Government decided on instituting the present investigation. The claimants have had every opportunity of adducing their proofs, for the inquiry into titles has been in progress for the past three years, and from a petition lately presented by them it appears they were fully aware of the object of the inquiry, and it is to be presumed they have done their best to protect what they consider their own interests, and the result speaks for itself.

17. I trust from what has preceded it is already apparent that the possession and enjoyment on the part of the Devasam has not been unchallenged. I have endeavored in paragraph 12 to show how both the Kotiote Rajah and the Government have now and again for several years past stepped in and exercised in respect of the forests an interference, of a kind and to an extent, utterly subversive of the supposition not withstanding of recognized possession on the part of the Devasam, and it only remains for me to notice one more fact in point. The late Mr. Conolly, the Collector, in 1853 or 1854 gave a Mr. A. Browne permission to fell and plant with Coffee a hill forming a part of No. 14 (Appendix A.) Mr. Brown accordingly commenced operations when the Uralars filed an action for ouster against him. To this suit the Collector was a party, and the plaintiffs were non-suited on the ground of their having failed to make out any title, and the decision was confirmed in appeal by the Sudder Udalat. The claim appears to have been since abandoned.

18. The conclusions I have arrived at, therefore, are, first, that the whole of the forest lands claimed by the Tirunelli Devasam belonged to the Pychee Rajah, the whole of whose property was forfeited by rebellion; and secondly, that the possession and enjoyment on the part of the Devasam have not been of such a character, or for such a lengthened period as to bar the right of the ruling power, now after the lapse of time, to enforce the sentence of escheat, and consequently, with every desire to respect and uphold the rights of our native subjects, especially that, to them dearest of all rights, the right in landed possessions, I feel it my duty to state it as my opinion that the Government would be fully justified in resuming the whole of the forests; but while it is my opinion that such a measure would be perfectly just, I would venture to suggest it for the deliberation of superior judgment whether it would be altogether expedient on political grounds, especially in advertence to the high veneration in which the temple is held throughout Malabar.

19. Trichelleri Devasam.—The diety worshipped in the Trichelleri temple is Siva, the third person in the Hindu Trinity. The temple stands in a valley lying on the south of a range of hills, which divides the Trichelleri from the Tirunelli District. It is a temple of no particular note, and by far inferior in importance to the Tirunelli temple. It appears, however, to be subordinate to the latter, and pilgrims to Tirunelli first visit Trichelleri, and present there a lighted lamp in order to perfect the offerings made by them at Tirunelli. The practice is said to take its rise from the circumstances of the rock on which the offerings at Tirunelli are placed, having its southerly end projecting towards Trichelleri.

20. There is but one Uralar, or trustee, Kamuratta *alias* Palakunatta Shengaran Nambudri. He is a Malabar Bramin and resides permanently in lower Malabar. The management of the affairs of the Devasam is delegated to the Pattali, an inferior office-bearer in the temple. The incumbents of this office are constantly changed, and they would appear to deal with the property belonging to the temple just as it suits their purpose.

21. Appendix D gives a list of the lands claimed by the Devasam. Nos. 1 to 26 are forest and grass hills, and Nos. 27 to 105 paddy lands. There are no valuable timber trees to speak of in any of the forests among the number, but

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the forests are adapted for the cultivation of Coffee. None of these lands are in the list of escheats.

22. The Uralar is unable to state how or when the Devasam acquired the lands, but it is asserted they have been held time out of mind, but in support of this assertion no evidence whatever is offered. On a reference to Appendix D, it will be seen that all the documents produced in connection with the forest lands bear date 1033 (1857-58), 1034 (1858-59) and 1035 (1859-60), not later than three years back, and they all purport to be leases of small extent for planting Coffee. There are two, however, dated 1025 (1850-51) and 1029 (1854-55) respectively, but they are for small pieces and patches of ground on the slopes of hills, given to Natives for building sites and Coffee gardens, and besides they even are under twelve years. There is no doubt that this exercise of private rights by the Devasam is an encroachment of modern times, and that it never possessed any forest lands, these having belonged to the Pychee Rajah. In 1021 (1847) the Kotiote Rajah assigned on a perpetual lease some of the hills entered in Appendix D to Dr. Magrath, formerly Superintending Surgeon of Malabar and Canara. The identity of the hills is not apparent from the names given in Dr. Magrath's Deed, except in the case of one hill (No. 23), but from local inquiries conducted by me in person, the extent of country embraced within the boundaries mentioned in the deed evidently include some of the hills. When Dr. Magrath's agent entered on one of the hills, and commenced operating on it he was stopped by the Tahsíldár, who claimed it as Government property, and the question of ownership then came under review, and it was finally decided in favor of the Government in 1852 by the Sub-Collector Mr. Chatfield. Subsequently Dr. Magrath transferred his rights under the lease to a Mr. Job, and on the death of the latter, the property passed into the possession of the Pugh Estate. Some time in the year 1859, the Manager of the Pugh Estate, Mr. T. Richmond, sold some of the hills to a Mr. Bassano, and the latter gentleman felled and planted a portion when he was warned by the local authorities to cease operations, and this protest on their part brought the case before the Collector, Mr. Grant, who reported on it for orders to the Board of Revenue. The Board, in their Proceedings of the 2nd December 1859, No. 4,953, declined to recognize any claim based on the deed executed to Dr. Magrath by the Kotiote Rajah, and confirmed Mr. Bassano in his occupancy; and the Government are now collecting the Jenmabhogam proprietor's share on this grant. Though the decision of the Board was with reference to only a part of the Rajah's grant it virtually affected the whole extent embraced within the boundaries mentioned in the deed, and no action has been taken on this decision by the Uralars of the Devasam.

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23. The claim of this Devasam, therefore, is of the same character evidently as that set up by its neighbour, the Tirunelli Devasam, and the lands claimed by it are in a similar predicament. The possession shown by the claimant is of recent times, and that possession has not been unchallenged.

24. Pulpali Devasam.—The Pulpali, or Murukanma temple, is set apart for the worship of Levan and Kushan, the two sons of Sri Raman, an incarnation of Vishnu. According to Hindu Mythology, Sri Raman repudiated his wife, Sita Devi, after she had became pregnant, on account of some scandalous insinuations in connection with her having been carried away by an evil genius with whom she remained for some time. On her being repudiated by her husband, she took refuge in the forests, and there she met Vamiki Mharshi, a saint, who on learning her history, gave her shelter, and while she was under his shelter she gave birth to the two boys Levan and Kushan. In process of time the boys were returned to their father, Sri Raman, and on their return the saint caused images of them to be made, and consecrating them, made them objects of adoration, and these are the deities worshipped in the Pulpali temple under the name of Murukanmar. The temple, however, does not seem to be one of any note whatever. The site of it is the Pulpali hill, the building itself having been destroyed by fire some years ago; but preparations are being made for erecting a substantial and costly edifice.

25. The Uralars, or trustees, are four in number, first, Kupatode Kungan Nair; second, Pariatta Emu Nambiar; third Pulpadi Reru Nair; and fourth, Chekalur Kannan Nair. The

administration of the affairs of the temple however vests, subject to the approval and confirmation of the other Uralars, in the first, Kupatode Nair, who is the representative of an influential and wealthy family.

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26. The whole of the lands claimed by the temple are given in Appendix E. Nos. 1 to 59 are forest and grass hills, and Nos. 60 to 127 paddy lands, and of 1 to 59, 1 to 3 are Teak forests. The lands are situated in three Desams of the Kupatode Amsam, viz., the Pulpali Chekalur, and Pulpadi Desams, but prevail principally, in the Pulpali Desam. The survey operations have not extended to this part of the District, but on a rough calculation the lands claimed occupy probably an area of about 50 square miles. None of these lands are in the list of escheats.

27. The claimants have deposed before me that they have no documents whatever to produce; that most of the documents they had were burnt when their houses were destroyed by fire during Hyder's invasion in 951 (1775-76), and that what were forthcoming were presented to the Collector on a former occasion. The latter I infer are those given in the Appendix to Mr. Grant's letter to the Board, in which he explains how they probably came on his records. I therefore enclose a copy of that list. It is true those documents are somewhat vague and indefinite in their terms, but I think sufficient can be gathered from them to show that the Devasam has exercised private rights in the forests for a period of about forty years commencing from 998 (1822). The Uralars have let the privilege to fell timber, collected the forest products, such as honey, bee's wax, &c., entrapped and taken Elephants; and I do not see adequate reason for doubting the genuineness of the documents, for at the time they were produced there does not appear to have been any object or sufficient opportunity for fabricating such evidence.

Dated 12th December 1859, No. 293.
Appendix F, enclosure 3.

28. In the case of this temple there are two points, claiming consideration, which are wanting in the case of the other two, first, that its possession hitherto has never been challenged by the Government; and secondly, that if the Pychee Rajah possessed the forests, he appears to have held them in trust for the Devasam.

29. That the possession on the part of the Devasam has never been challenged is apparent from the records; on the contrary it appears to have been admitted, inasmuch as when Mr. Chatfield, the Sub-Collector, in 1850, proposed letting out on contract on behalf of Government the Pulpali forests in common with the other forests in Wainád, the Uralars came forward with their claims, when an investigation was held, and the result was that Mr. Chatfield came to the conclusion that as the Devasam had shown they had possession of the forests the proposed letting should be deferred.

30. The Kotiote Rajah, the successor of the Pychee Rajah, while he appears to have exercised an interference to some extent in the affairs of the Devasam, at the same time admitted its right to the forests. I would refer to documents 1, 7 and 14 in the list, from which it will be seen that he prohibited a party from cutting timber in the forests *without the consent of the Devasam* apparently after he had himself given him permission to do so; and further that the Rajah was in the habit of visiting the temple. Some stress has been laid on the fact of the Pychee Rajah having been killed in the Pulpali forests, but I do not see that this purely adventitious circumstance affords any presumptive proof of the forests having belonged to him. He appears to have fled before our troops from one part of the District to another and taken possession of any forest and defended himself in it, whether it belonged to him or to any private individual, and there are hills all over the District on which he encamped for a time.

31. There is also in this case on the part of the claimants the absence of that labored attempt at concealing any circumstances or fact that would seem likely to damage their cause; they have not shunned the inquiry, nor does it appear to have unsettled their minds in the least, but rather they seem content to abide the result in the confidence, apparently, that it cannot be otherwise than favorable to them.

32. I am of opinion therefore there are not sufficient grounds for applying the sentence of escheat to the forests claimed by the Pulpali Devasam.

33. Before concluding it is necessary I should direct attention to the fact that several of the forest hills claimed both by the Tirunelli and Trichelleri Devasams are held on various tenures by European settlers and others, who have formed Coffee Estates on them; these parties proceeded to lease them from the ostensible owners in the *bonâ fide* belief, in most cases, that they were acquiring good and sufficient titles, and they have hitherto held and enjoyed them under this assurance; and if the Government, therefore, should decide on resuming the lands, although such a measure would not necessarily interfere with or disturb the possession of the present occupants, it might perhaps entail serious loss on them, for should they fail in recovering the money advanced by them they would be paying twice over for the same property in the event of their purchasing it afterwards from the Government, which step they would be compelled to take in order to secure their possession. Of course, I do not presume to advise that the Government should feel themselves restrained from action by the foresight of any such contingency as the one supposed, seeing they would not be the authors of it, but I notice the fact thinking it might be deemed worthy of being had in view in considering the question of expediency. Besides these encumbrances, there are several squatters on the lands, but as their rights are merely what bare occupancy by sufference confers, they are entitled to no consideration.

34. In conclusion, I have to express my regret at the delay that has occurred in submitting this report. It was mainly owing to the dilatoriness of the claimants in bringing forwarded their proofs; indeed the investigations were not brought to a close, from the same cause, before this report was actually in hand.

Enclosure No. 2.

Abstract.—List of forests, hills, and lands claimed in Jenm right by the Tirunelli Devasam.

Enclosure No. 3.

Abstract.—List of lands held on Kanom by the Tirunelli Devasam.

Enclosure No. 4.

Abstract.—List of lands claimed in Jenm right by the Tirunelli Devasam.

Enclosure No. 5.

Abstract.—List of hills and lands claimed by the Trichelleri Devasam.

Enclosure No. 6.

Abstract.—List of forests and grass hills and paddy lands claimed in Jenm right by the Pulpali Devasam.

Enclosure No. 7.

Abstract.—List of documents appertaining to Pulpali Devasam.

From G. A. BALLARD, Esq., Collector of Malabar, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Madras, dated Calicut, 11th September 1862, No. 190 :—

Sir,

1. I have the honor to submit copy of a letter from my Deputy Collector in Wainád, Mr. Richardson.

2. I propose starting on a tour in Wainád in a day or two. Indeed I should have been there now had not other work of an unexpected nature delayed me. I wished to have acquired some little personal acquaintance with the District before writing on any of the important questions connected with it, but this matter of the Pagoda claims brooks no delay.

3. I beg to refer to the previous* correspondence, but especially to Mr. Stuart's report† which has now been for some time before Government. I think Mr. Stuart makes matters very plain. I entirely agree with my predecessor in considering the settlement of the question urgently required. I think it would be preferable even to waive the Government claims than to keep the question much longer an open one. But I do not conceive this course either necessary or desirable. I take the Board's

* From Collector to Board 12th December 1859, No. 293.
Proceedings of Board 10th January 1860, No. 119.
Do. Madras Government 29th February 1860, No. 166.
Do. do. 22nd May 1861, No. 1,070.
Board's Proceedings 3rd February 1862.
Proceedings of Madras Government 25th February 1862, No. 404.

† Deputy Director to Director Revenue Settlement 20th February 1862, No. 108.

views that we have given up enough already in Malabar, and Government, whilst it may not usurp, must not submit to usurpations.

4. I have the therefore the honor to suggest that a proclamation be issued declaring that the lands alluded to Mr. Stuart's report (and any others that, on inquiry in the Revenue Settlement Office or my own, it appears *prima facie* desirable to include) have after patient investigation been found to be Government lands; that parties are warned that they can derive right or interest therein from Government alone; and that any contracts formed regarding these lands with others to the prejudice of the Government rights are voidable and worthless.

5. I have not the appendices to Mr. Stuart's report, and most of the accounts bearing on the subject are with the Settlement Office. But I do not imagine it will be difficult to draw up a sufficiently comprehensive and definite list for present purposes.

6. Regarding further steps as the identification and settlement of the boundaries of the lands I hope to address the Board before long. I write now to urge that no time be lost in the preliminary step of asserting the Government claim.

7. Regarding the particular suit alluded in Mr. Richardson's letter I will have inquiry made, and take any step that may be necessary without delay.

ENCLOSURE No. 1.

From H. RICHARDSON, Esq., Deputy Collector of Wainád to G. A. BALLARD, Esq., —— Collector of Malabar, dated Manantodi, 4th September 1862, No. 170.

SIR,

1. Having learnt that Othanen Nambiar, commonly called the Dindimul Nambiar, is proceeding against the trustees of the Trichelleri Devasam and Messrs. F. and T. Richmond and others in the Principal Sudder Amín's Court,* to obtain possession of all the lands that the Devasam people had sold to those parties, I consider it my duty to bring the circumstance to your notice, in view that measures may be taken to defend the suit on the part of Government; as I firmly believe that there is collusion between the parties, for no doubt the Devasam people are aware of Mr. Stuart's report on the subject of the claims of the two Devasams, and the present act is a subterfuge to pass the property into other hands.

* At Tellicherry.

2. I also hear that the trustees of the Tirunelli Devasam are selling lands at any price they can get, and I would therefore solicit your urging on Government the necessity of passing immediate orders on the subject of Mr. Stuart's report.

(True Copy.)

(Signed.) G. A. BALLARD, *Collector.*

Ordered to be submitted to Government, with reference to their Order dated 31st January 1860, No. 166.

1. In their Proceedings dated 12th July 1859, No. 925, the Government reviewed the rights of the State in the forests of Wainád, and resolve that in the case of the Central, Southern, and Western Divisions (Amsams) of that Talook, where long undisputed enjoyment had existed the proprietary (jenm) right of the occupants should be admitted both as to the open country and the forests. In the four Eastern Divisions, however, where private rights in the forests had not been exercised at all, or had been claimed in but very recent times only, the rights of Government were to be upheld. The forest lands of Moonanaad and Gunnapsuttivuttum divisions (Amshoms) were accordingly placed under the charge of the Conservator of Forests, and a further report was called for on the claims made by the trustees (Uralars) of certain temples to the forests of the Ellunaad division (Amshom), and to those of the Pulpally Sub-division (Desam) of the Kupatode division (Amshom).

Pulpally Temple, Kupatode Amshom.
Tirunelli Temple } Ellunaad Amshom.
Trichelleri do. }

2. In his letter dated 12th December 1859 No. 293, the Collector of Malabar reported that every facility had been offered to these temple trustees (Uralars) to prove any rights they might have in the forests in question, but that none of them had acted on the notice issued to

them on the subject. Mr. Grant therefore submitted a Memorandum in each case, embracing all the material information that had been already obtained regarding the forest lands.

3. Mr. Grant explained that the Tirunelli temple, on behalf of which was claimed certain forests in the Ellunaad division, is a temple of great antiquity, and that any interference with it supposed rights would be "acutely felt" in all parts of his District. In this case, however, the right of the temple to the forest lands had been twice disputed in Courts of Justice; in the first instance, when the Rajah of Kotiote brought a suit against Mr. Cowley, who had occupied a portion of the land, the Collector being included as a Defendant; and on the second occasion, when the trustees of the temple sued the Collector for giving out a portion of the lands for Coffee planting. The Rajah was cast in Court, and never again attempted to establish his claim by legal means. In the other case, a decision was given against the claimants, both in original and appeal. But a special appeal in the same cause was pending at the time Mr. Grant wrote.

4. With regard to the claims preferred by the Trichelleri temple and the Pulpally temple, the former in the Ellunaad division, and the latter in the Pulpally Sub-division of the Kupatode division; Mr. Grant stated that no claims had ever been brought forward on behalf of the Trichelleri temple; but that a Petition had now been put in by the trustees (Uralars) furnishing a list of hills and lands to which they preferred a claim. In the other case, though numerous documents had been put in by the claimants, Mr. Grant observed that none bore date antecedent to Mr. Vaughan's proclamation in 1824, and that whether any were genuine or not might be fairly doubted.

5. Mr. Grant concludes by stating that "after considerable inquiry and the perusal of many records," the impression left on his mind was that none of the temples possessed originally forest lands. He thought it improbable that forests which prior to the accession of the British had possessed no value, except as hunting grounds, could have formed the endowment of religious institutions; and secondly, that all the examinations held, indicated that the temple people were themselves conscious that they had no trustworthy evidence to adduce.

6. Mr. Grant, however, recommended that the claims should not be finally decided on until after the impending survey, when the Director of the Settlement would probably be able to throw much light on the rights in dispute.

7. The Board, in their Proceedings noted in the margin, supported Mr. Grant's recommendation; and Government, in their Order dated 31st January 1860, No. 166, adopted it; directing the Deputy Director of the Revenue Settlement to report fully on the claims when his operations had sufficiently advanced to enable him to do so. In accordance with this Order, Mr. Stuart has submitted the report which forms the enclosure of the letter recorded at the head of these Proceedings.

10th January 1860, No. 119.

8. Mr. Stuart's report consists chiefly of an analysis of the evidence in which the title of the parties laying claim to the forests rests. No survey of the lands has taken place. It is not therefore possible to arrive at correct information as to the extent of the lands involved, nor have the advantages which were expected from placing the disposal of the matter in the hands of the Settlement Department been obtained, except that the lands have apparently been marked out by Mr. Stuart, and their boundaries defined.

9. The lands claimed by the Tirunelli temple, independent of those which are described as paddy lands, consist of 102 hills or knolls (Appendix A in Mr. Stuart's report), which are roughly estimated to cover an area of 56 square miles. On nine of these hills Teak forests are found, but what extent of land these forests cover is not stated.

10. Mr. Stuart's report shows that the trustees are quite unable to explain how their alleged rights originated. They simply maintain that these rights have existed from time immemorial. On the other side it is argued; first, that the Government Officers, from 1826 downwards, have exercised acts of ownership in the Kudookole forests (situated within the tract of country now claimed by the temple) without any protest from the temple trustees; second, that the trustees were likewise passive when Mr. Cowley in virtue of the lease granted him in 1815, took possession of a part of the land included in the same disputed tract; thirdly, that the temple trustees never

attempted to exercise any proprietary rights in the forests till a very recent period. (The only evidence that they ever exercised any such right are two deeds, the one dated in 1851-52, the other in 1856-57, leasing to Natives of Mysore the right to cut Teak-wood; and certain grants of land, chiefly to Europeans, dating from 1857); fourth, that an old account, dated 1807 specifying the names of the Wainád forests and the hill products collected by Government, some of the forests retained by the temple are described as forests that belonged to the Pychee Rajah; fifth, that there is no apparent reason why these forests should have been conferred by any ruling power in the temples, for it is only in modern times that these forests have been turned to profitable account.

11. It seems that the suit against Mr. Cowley involved seven of the hills containing Teak, and much of the remaining forest land. It is now stated that the trustees were not parties to that suit; that the suit was brought by the senior Rajah of Kotiote against Mr. Cowley and the minor Rajah, to cancel the lease which the latter had granted to Mr. Cowley without the senior Rajah's consent; that the Collector was made a party to the suit at his own request, on the ground that the forests in dispute were escheats; and that the suit was dismissed on the motion of the Plaintiff.

12. Mr. Stuart also refers to the suit brought by the trustees of the temple against the late Collector, Mr. Conolly, to oust Mr. Browne, to whom Mr. Conolly gave permission, in 1853 or 1854. to occupy for Coffee cultivation a portion of a hill (No. 14) forming one of those now claimed by the trustees. The Plaintiffs were cast in this suit in all its stages, from the Original Suit to the Special Appeal in the Court of Sudder Adalat.

13. With reference to the above evidence Mr. Stuart expresses an opinion; first, that the forests in question were the property of the Pychee Rajah; secondly, that the trustees of the Tirunelli temple have entirely failed to make out their claim.

14. The forest lands claimed on behalf of the Trichelleri temple are numbered 1 to 26 in enclosure D of Mr. Stuart's report. These forest lands contain no valuable trees of any kind, but are well suited for Coffee cultivation. No estimate of their extent is given by Mr. Stuart.

15. In this case also, though the trustees state in general terms that the forests have belonged to their temple from time immemorial, they have not till recent times exercised any right of ownership. Between the years 1857 and 1860, the trustees granted certain leases for small portions of land within the disputed tract for Coffee cultivation, and in the years 1850-51 and 1854-55 they gave to leases for small plots of land. On the other hand, when the Kotiote Rajah in 1847 granted some of the hills entered in Appendix D to Dr. Magrath on a permanent lease, the local Officers interfered on the ground that the lands were Government property; and in 1852, the Sub-Collector Mr. Chatfield, decided the disputed point in favor of Government. On this occasion the question of right was raised only between the Kotiote Rajah and the Government. The temple trustees took no action in the matter.

16. Subsequently, the Board of Revenue, in Proceedings dated 2nd December 1859, No. 4,953, confirmed a Mr. Bassano in possession of 300 acres of the land included in Dr. Magrath's lease. Mr. Bassano is at present paying the landlord's rent to Government; and no opposition has been offered by the temple authorities to his occupation of the land.

17. The forest lands claimed on behalf of the Pulpally temple are numbered 1 to 57 in Enclosure E in Mr. Stuart's report. Of these 1 to 3 are Teak forests. Mr. Stuart estimates roughly the whole extent of land claimed by this temple, including both forest and paddy lands, at about 50 square miles.

18. In this case a number of documents have been brought forward, showing that during the last forty years the temple trustees have sold trees from the forests, have collected the forest products, as honey, bees' wax, &c, and have caught elephants. Mr. Stuart also adverts to three of these documents (Nos. 1, 7, 14) as showing that the Kotiote Rajah prohibited certain parties from cutting timber in the forests without the consent of the temple trustees.

19. The Government Officers have never yet exercised any rights in these forests. It was proposed by the Sub-Collector in 1850 to let out the Pulpally forests, in common with the other

forests in the Wainád, but this step was at the time abandoned in consequence of claims advanced to the Pulpally forests on behalf of the Pulpally temple.

20. The Board having thus explained the nature of the evidence by which these claims must be tried, proceed to record their opinion that the judgment expressed by Mr. Grant in regard to all the three claims is substantially correct. They do not think it at all probable that such extensive tracts of country were ever conferred on these temples; nor would they be at all prepared to admit such claims unless the trustees were able to produce some sort of reliable evidence as to the time when, and the parties by whom, the endowments were made. The Board would also remark that the decisions passed by the Civil Courts in the suit brought by the Tirunelli temple, are not only decisive in regard to the land under litigation, but may be fairly taken as a precedent against all claims resting on evidence of a no more substantial and reliable character than that advanced by the trustees of the Tirunelli temple.

21. The Board are further of opinion that the course pursued by the Rajahs of Kotiote, on the several occasions on which they interfered with the forests, clearly indicates that these persons did not recognize the temples as having any proprietary rights. In the case of the Tirunolli and Trichelleri forests, it is beyond dispute that the Kotiote Rajah's asserted rights of their own to the forests, in virtue of the relationship which existed between them and the Pychee Rajah (a junior branch of the Kotiote family). But even in the case of the Pulpally temple it is obvious to remark that the Kotiote Rajahs, if the temples had from time immemorial possessed the proprietary rights now claimed, would have found no pretence for interfering with the exercise of those rights. The Board deem it most probable in this instance, that the temple, in respect to any profit it derived from the forests during the period to which their documents relate (a period subsequent to the proclamation issued by Mr. Vaughan in 1824), was enabled to enjoy such advantages through some collusive arrangement with the Kotiote Rajahs, who were aware that their own title to the forests, as derived from the Pychee Rajah, could not be maintained.

22 The Board believe that the local Officers were not aware till 1851 that the Pulpally temple claimed any proprietary interest in the forest lands, for if the Government Officers had been informed correctly on this point it is fair to assume that in this instance, as in the other two cases, they would have taken measures to uphold the rights of Government. But little, in fact, was known in regard to these extensive forest tracts up to a recent period. It was generally supposed that in the existing circumstances of the country, the forests were not capable of yielding any important amount of revenue even from the felling of timber; and therefore for many years after the Wainád became British territory, nothing was done on the behalf of Government to assert their rights in the forests.

23. Mr. Stuart has adverted, in conclusion, to the fact that several of the forest hills claimed by the Tirunelli and Trichelleri temples are now occupied by European settlers and others, who have formed Coffee Estates on them; and that these parties have leased the land from the ostensible owners in the belief that they were acquiring good and sufficient titles. The Board do not suppose that any decision the Government may come to would place the persons who are here referred to in a worse position than they now occupy. The chief purpose for which the Government have thought it proper to uphold its proprietary rights in the Wainád forests is, doubtless, to secure to all persons who are disposed to devote their labor and capital to the cultivation of the forest lands, the power of doing so on terms the most favorable to their industry. At present, the persons who are described as leasing land from the temples are in no better condition than tenants, paying for the use of the land to others in whom a property in the land itself vests. If the temples should fail to prove that they have a valid claim to any such property, the actual cultivators of the soil, as the persons who are alone instrumental in making it productive, may fairly hope to enjoy the whole fruits of their labor, subject to no other charge than the usual Land Tax, and the Jenm fee fixed by Government, for Government lands at the rate ½ Rupee an Acre.

24. It also occurs to the Board to remark that the temples cannot reasonably expect a more favorable decision in their case than the evidence by which they would support their claim will

strictly warrant; for it is evident, first, that their alleged right of property in the land is not based on the first principle on which the institution of private property rests; that is to say, they have not obtained their right of property through any labor of their own; and second, it is no less evident that their interests are not alone at stake, but the interest of a large section of the community; or of all that class who may hereafter employ themselves in the cultivation of the land within any portion of the 100 square miles, or more, claimed by the temples. If therefore there is: any reasonable doubt, the Board are of opinion that the balance should incline against the temples.

25. The evidence on which the claim actually rests is, of necessity, confined to two points. The temples must show that they derived their property in the land from others, as by gift or otherwise; or they must prove a title based on prescription only. They have produced no evidence at all on the first point; nor have they succeeded, the Board believe, in establishing a fair title on the ground of long and undisturbed possession.

26. Mr. Ballard's letter above recorded, and which was received with these Proceedings were on the eve of submission to Government, shows the necessity of action in the matter, and the Board would support his recommendation for the issue of a Notification regarding the rights of Government in these forests.

(True Copies and Extract.)

(Signed.) W. HUDLESTON, *Secretary.*

No. 90. ORDER THEREON, 5th December 1862, No. 2,551A.

1. With these Proceedings the Board of Revenue submit for the orders of Government the report of the Acting Deputy Director of Revenue Settlement, Mr. W. C. Stuart, on the claims of the Tirunelly, Trichellery, and Pulpally Temples to certain forest lands in the Wainád Tálook of Malabar.

No. 925, paragraph 10.

2. In their Order of the 12th July 1859 the Government instructed the Collector of Malabar to call on the claimants to these forests to bring forward any evidence they might possess in support of their claims, by a date to be fixed by that Officer.

3. In December following the Collector reported that he had allowed the Uralars of the Temples twenty days for the production of their evidence, and as none of the parties appeared before him he submitted a list of the documents which they had produced or which had been found on record regarding their claims, and recommended that the final decision of Government should be deferred until the Revenue Survey of the Tálook reached the locality in which the forests are situated. Mr. Grant's own opinion was adverse to the claims of the Temples.

4. The Government adopted the course recommended by the Collector and referred the subject to the Deputy Director of Revenue Settlement, whose report is recorded at the head of these Proceedings.

5. Mr. Stuart's report goes very fully into the merits of the different claims, and it is unnecessary therefore for the Government to recapitulate the arguments on which, in concurrence with him, with the late Collector Mr. Grant, the present Collector Mr. Ballard and the Board of Revenue, they have come to the conclusion that the Trustees of the Tirunelly and Trichellery Temples have wholly failed to establish their claims. The Board will accordingly instruct the Collector to notify publicly that these forests are the property of Government, and to place himself in communication with the Conservator of Forests regarding their future management.

6. In respect to the claims of persons who have, in ignorance of the rights of Government, obtained lands from the Uralars of these Temples, the Government will of course act with liberality and consideration. In all cases where the parties have acted in good faith, the Government will respect their titles. Their lands will of course be subject to the regulated assessment, just as if they had obtained them from private proprietors or the Government, but their agreements in respect to the jenm or Landlord's right will remain undisturbed. The Collector should convey an assurance of this nature to the parties interested, in every case where collusion or bad faith is not self-evident. The Collector will understand that mere inadequacy of consideration is not,

per se, to be held proof of collusion, and that Government are desirous of acting liberally in this assertion of the rights of the State.

7. The claims of the Pulpally Temple differ from those of the other two Temples, inasmuch as its Trustees have exercised private rights in the forests in question for forty years, unchallenged by the Government and with the recognition even of the Kotiote Rajah. Under these circumstances and especially with reference to the Despatch of Her Majesty's Secretary of State, dated 16th April 1861, the Government resolve to waive all claims on the part of the State to these forests.

(Signed) J. D. SIM,
Secretary to Government.

been exercised at all, or had been claimed in but very recent times only, the rights of Government were to be upheld. The forest lands of Moonanaad and Gunnapsuttivuttum divisions (Amshoms) were accordingly placed under the charge of the Conservator of Forests, and a further report was called for on the claims made by the trustees (Uralurs) of certain temples to the forests of the Ellunaad division (Amshom), and to those of the Pulpally Sub-division (Dasum) of the Kupatode division (Amshom).

Pulpally Temple, Kupatode Amshom.
Tirinhulli Temple } Ellunaad Amshom.
Trichellary do. }

2. In his letter dated 12th December 1859, No. 293, the Collector of Malabar reported that every facility had been offered to these temple trustees (Uralurs) to prove any rights they might have in the forests in question, but that none of them had acted on the notice issued to them on the subject. Mr. Grant therefore submitted a Memorandum in each case, embracing all the material information that had been already obtained regarding the forest lands.

3. Mr. Grant explained that the Tirinhulli temple, on behalf of which was claimed certain forests in the Ellunaad division, is a temple of great antiquity, and that any interference with it supposed rights would be "acutely felt" in all parts of his District. In this case, however, the right of the temple to the forest lands had been twice disputed in Courts of Justice; in the first instance, when the Rajah of Cattcote brought a suit against Mr. Cowley, who had occupied a portion of the land, the Collector being included as a Defendant; and on the second occasion, when the trustees of the temple sued the Collector for giving out a portion of the lands for Coffee planting. The Rajah was cast in Court, and never again attempted to establish his claim by legal means. In the other case, a decision was given against the claimants, both in original and appeal. But a special appeal in the same cause was pending at the time Mr. Grant wrote.

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5. Mr. Grant concludes by stating that "after considerable inquiry and the perusal of many records," the impression left on his mind was that none of the temples possessed originally forest lands. He thought it improbable that forests which prior to the accession of the British had possessed no value, except as hunting grounds, could have formed the endowment of religious institutions; and secondly, that all the examinations held, indicated that the temple people were themselves conscious that they had no trustworthy evidence to adduce.

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7. The Board, in their Proceedings noted in the margin, supported Mr. Grant's recommendation; and Government, in their Order dated 31st January 1860, No. 166, adopted it; directing the Deputy Director of the Revenue Settlement to report fully on the claims when his operations had sufficiently advanced to enable him to do so. In accordance with this order, Mr. Stuart has submitted the report which forms the enclosure of the letter recorded at the head of these Proceedings.

10th January 1860, No. 119.

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9. The lands claimed by the Tirinhulli temple, independent of those which are described as paddy lands, consist of 102 hills or knolls (Appendix A in Mr. Stuart's report), which are roughly estimated to cover an area of 56 square miles. On nine of these hills teak forests are found, but what extent of land these forests cover is not stated.

10. Mr. Stuart's report shows that the trustees are quite unable to explain how their alleged rights originated. They simply maintain that these rights have existed from time immemorial. On the other side it is argued; first, that the Government Officers, from 1826 downwards, have exercised acts of ownership in the Kudookole forests (situated within the tract of country now claimed by the temple) without any protest from the temple trustees; second, that the trustees were likewise passive when Mr. Cowley in virtue of the lease granted him in 1845, took possession of a part of the land included in the same disputed tract; thirdly, that the temple trustees never attempted to exercise any proprietary rights in the forests till a very recent period. (The only evidence that they ever exercised any such right are two deeds, the one dated in 1851-52, the other in 1856-57, leasing to natives of Mysore the right to cut teakwood; and certain grants of land, chiefly to Europeans, dating from 1857); fourth, that an old account, dated 1807, specifying the names of the Wynaad forests and the hill products collected by Government, some of the forests retained by the temple are described as forests that belonged to the Pychee Rajah; fifth, that there is no apparent reason why these forests should have been conferred by any ruling power in the temples, for it is only in modern times that these forests have been turned to profitable account.

11. It seems that the suit against Mr. Cowley involved seven of the hills containing teak, and much of the remaining forest land. It is now stated that the trustees were not parties to that suit; that the suit was brought by the senior Rajah of Cotticote against Mr. Cowley and the minor Rajah, to cancel the lease which the latter had granted to Mr. Cowley without the senior Rajah's consent; that the Collector was made a party to the suit at his own request, on the ground that the forests in dispute were escheats; and that the suit was dismissed on the motion of the Plaintiff.

12. Mr. Stuart also refers to the suit brought by the trustees of the temple against the late Collector, Mr. Conolly, to oust Mr. Browne, to whom Mr. Conolly gave permission, in 1853 or 1854, to occupy for Coffee cultivation a portion of a hill (No. 14) forming one of those now claimed by the trustees. The Plaintiffs were cast in this Suit in all its stages, from the Original Suit to the Special Appeal in the Court of Sudder Adalat.

13. With reference to the above evidence Mr. Stuart expresses an opinion; first, that the forests in question were the property of the Pychee Rajah; secondly, that the trustees of the Tirinhulli temple have entirely failed to make out their claim.

14. The forest lands claimed on behalf of the Trichellur temple are numbered 1 to 26 in enclosure D of Mr. Stuart's report. These forest lands contain no valuable trees of any kind, but are well suited for Coffee cultivation. No estimate of their extent is given by Mr. Stuart.

15. In this case also, though the trustees state in general terms that the forests have belonged to their temple from time immemorial, they have not till recent times exercised any right of ownership. Between the years 1857 and 1860. the trustees granted certain leases for small portions of land within the disputed tract for coffee cultivation, and in the years 1850-51 and 1854-55 they gave two leases for small plots of land. On the other hand, when the Cotticote Rajah in 1847 granted some of the hills entered in Appendix D to Dr. Magrath on a permanent lease, the local officers interferred on the ground that the lands were Government property; and in 1852, the Sub-Collector, Mr. Chatfield, decided the disputed point in favor of Government. On this occasion the question of right was raised only between the Cotticote Rajah and the Government. The temple trustees took no action in the matter.

16. Subsequently, the Board of Revenue, in Proceedings dated 2nd December 1859, No. 4,953, confirmed a Mr. Bassano in possession of 300 acres of the land included in Dr. Magrath's lease. Mr. Bassano is at present paying the landlord's rent to Government; and no opposition has been offered by the temple authorities to his occupation of the land.

Bd's Proceedings No 6295
of 20 Sept=/62

Submitted for orders,
especially in regard to
the claim set up by the
Pulpalli Devastánam=
2 In their Proceedings dated
12th July 59, the whole
question of the rights of the
State to the various forests
of Wynaad came under the
review of Govt. where Govt.
a proprietary
possess rights, it is only
by escheat derived chiefly
from confiscations after
the rebellion of the Pychee
Rajah. Much of the land
then forfeited was overlooked
owing to the imperfect
information of the authorities
& in 1859 it was found
that the great bulk of the
properties, liable to confis-
cation, had been held for
above half a century
without interference, and
without any attempt to
Enforce the sentence of

forfeiture. The Govt were not of opinion that any measures to that end could be properly taken after such a lapse of time, in any case where such long undisputed enjoyment had actually existed. Accordingly the proprietary right of occupants was admitted throughout the Central, Southern & Western parts of the Taluk, both as respects open country & forests. In four of the Eastern Amsams, however, it appeared that no private rights had been exercised in the forests, or only in very recent times. In regard to two of them no claim whatsoever had been advanced, & they were therefore placed under the Conservator of Forests. In the other two the forests were believed to have belonged to the Pychee Rajah, but they were claimed by three temples, and tho' there seemed good reason to regard them claims as quite modern, a further report was called for.

3 The Collector's report will be found in Proc^s No 166 of 31st Jan^y/60. The opinions of the Board & Dep^r Dir^r of Rev: Settlement are stated in the papers now submitted.

4 Thus it will be seen that there are two points to be determined:— first, whether the forests were the property of the temples or of the Pychee Rajah; secondly whether, altho' originally the property of the Rajah, they have been held by the temples so long without interference, as to render it either unjust, or inexpedient, to disturb their possession.

5 Perhaps it will be well to recall attention to the declaration made in anticipation of the Survey of Wainad. The Gov^t then affirmed that it was not their intention "to disturb existing enjoyment, even where it might rest on

no more solid basis than length of occupancy," that there would be "no attempt to enforce the sentence of escheat, passed on the Pychee Rajah & his adherents in 1806, on lands hitherto exempt, where bonâ fide possessed," & that "even more recent encroachments on forest would be liberally considered."

6. H.M.'s Govt. have expressed their entire concurrence in these views & have desired that they be strictly adhered to. They have also requested, on a consideration of the sacred character of the temples, and especially of Tirunelli, that no proceedings may be taken in detriment to their alleged claims without anxious deliberation.

7. It will be seen that the Board, & Messrs Grant, Ballard & Stuart are unanimous in rejecting the claims put forward by two of the temples,

i.e. when there is enjoyment - occupancy or possession.

Despatch 16 April 1861 in Proc.s Rev Dep.t 22 May 1861

The claims of the Tirunelli & Trichellur Malars must I think be rejected - it being notified at the same time that the holders of land under recent grants from them for coffee planting will not be disturbed - The instructions of the Secty of State render it proper to admit the Pulpalli claim - It has been shown by documents which Mr Stuart says need not be distrusted that the Temple has enjoyed the forest products. Mr Grant's letter shows that Mr Chatfield, a former Sub Coll.r, was so far satisfied, after enquiry, of the Temple's right as to obtain from interfering with this forest tract & to reject offers made for the timber in it - These facts & the non entry of the forest in Mr Pinjean list of escheats render it unadvisable now for Govt to put forward a claim. Ellis

but in regard to Pulpalli Mr Stuart has shown that there are points claiming consideration which are wanting in the other two cases, tho' probabilities are equally strong against all three.

I agree
JPR
MPH
15 Oct 62

I have soon doubt about the Pulpalli forest lands - In regard to the lands of the two other Devasoms I think that the notification might issue -

The utmost consideration should, it seems to me, be shown to the parties who now occupy lands under paid from the Trustees of the Devasoms - This position should not in any way be prejudicial by the assertion of the Govt right - in all cases in which they may appear to have acted in good faith JP.

Claim of certain temples in Wynaad to certain forest lands.

Memo

No. 2551 A

Bd. pers: 273.553 / 5 Decem/52

With these pers: the Bd. of Revd. Intimt. for the order of Govt. the report of the Actg. Depy. Dr. of Revd. Settlement, Mr. W. E. Stuart on the claims of the Tirunelly, Trichellery, and Pulpally Temples to certain Forest Lands in the Wynaad Talook of Malabar.

No. 925. para 10

In their order of the 12 July 1859 the Govt. instructed the Coll. of Malabar to call on the claimants to these Forests to bring forward any evidence they might possess.

C 23 October 1858.

in support of their claims, by a ~~certain~~ date to be fixed by that officer –

In Decr. following the Coll. reported that he had allowed the Uralers of the Temples twenty days for the production of their evidence & as none of the parties appeared before him he submitted a list of the documents which they had produced or which had been found on record regarding their claims and recommended that the final decision of Govt. should be deferred until the Revenue Survey of the Talook reached the locality in which the Forests are situated. Mr. Grant's own opinion was adverse to the claims of the Temples.

The Govt. adopted the course recommended by the Coll. and referred the subject to the Dept. Dr. of Revt. Settlements whose report is ~~also~~ recorded at the head of these pros.

Mr. Stuart's reports goes very fully into the merits of the different claims, & it is unnecessary therefore for the Govt. to recapitulate the arguments on which, in concurrence

with him, with the late Colr. Mr. Grant, the present Colr. Mr. Ballard & the Bd. of Revl. they have come to the conclusion that the Trustees of the Terminally & Trichellery Temples have wholly failed to establish their claims. The Bd. will accordingly instruct the Colr. publicly to notify that these Forests are the property of Govt., and to place himself in communication with the Conservator of Forests regarding their future management.

In respect to

the claims of persons who have, in ignorance of the rights of Govt. obtained lands from the Wralers of the Temples, the Govt. will of course act with ~~every~~ liberality & consideration. In all cases where the parties have acted in good faith, the Govt. will respect their titles. Their lands will of course be subject to the regulated assessment just as if they had obtained them from private proprietors or the Govt. The Colr. should convey an assurance of this nature to the parties

interested, in every case where collusion or bad faith is not self-Evident. The Collr will understand that mere inadequacy of consideration is not, per se, to be held proof of collusion and that Govt are desirous of acting liberally in this assertion of the rights of the State.

The claims of the Pulpully Temple differ from those of the other two Temples inasmuch as its Trustees have exercised private rights in their Forests in question for 40 years — unchallenged by the Govt and with the recognition even of the Kotiote Rajah. Under these circumstances & especially with reference to the Despatch of H.M. Secy of State dy 16 April 1861, the Govt resolve to waive all claims on the part of the State to the Forests

14 Copies Table B of Revl Despt 8"
13 — Do of Revl Settl ✓
4 — Consr of Forests ✓

Copy in a Letter to England
Dd 11th December No 89 of 1862

Revenue 1862 Deptt.
Pro: of Govt for December

No. 2551 A.

Pro: of the Madras Govt.
Dd 5th December 1862.

From the Conservator of
Forests dd 8 April 55
C No 989

Report of the Deputy
Director of Revenue
Settlement in Wainad
on the claims of three Temples
to certain forest lands, with
orders thereon.

27-2-94
20-3-03
11/12/14

Pro. No. 28
12-7-59
" 132-133
31-1-60
" 186-187
22-5-61
" 485-486
25-2-62

No 89 & 90.