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CONCERNS BOTH BRITISH INDIA  
AND INDIAN STATES.

# MADRAS RECORD OFFICE.

Government of Madras.

*Revenue* DEPARTMENT.

G.O. No. 710

Press  
Mis.

Dated 12. 7. 1892

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GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

Read—again the following G.O., dated 11th May 1892, Mis. No. 2356, Revenue :—

Read—the following Proceedings of the Board of Revenue (Land Revenue), dated 20th April 1892, No. 179 :—

THE HON. MR. H. W. BLISS.

MR. E. GIBSON.

Read—the following letter from G. S. FORBES, Esq., Collector of Tinnevely, to the Secretary to the Commissioners of Land Revenue, dated Tinnevely, 28th February 1892, No. 150 :—

In continuation of my letter, No. 753, dated 17th November 1891, I have the honour to forward herewith the awards of the British and Travancore arbitrators, together with the papers on the appended

General Register No. 3850 of 1891.

list regarding the boundary dispute at Palavur, Nángunéri taluk.

2. The question is whether three fields demarcated as Survey Nos. 1348, 1499 and 1526 in Palavur village of the Nángunéri taluk and measuring about 93·03 acres in extent belong to the territorial jurisdiction of the Madras Government or of the Travancore Durbar. The matter was referred under Government Order, dated 5th December 1890, No. 987, Revenue, to the decision of arbitrators, Mr. Varada Rao, late Acting Head Assistant Collector of Tinnevely, being appointed on the part of Madras, and Mr. Shankara Subbaiyara, Dewan Peishkar, on the part of Travancore. As each arbitrator finds in favour of the Administration he represents, the final settlement of the dispute still remains to be reached either by the award, as referee, of the Resident in Travancore, or in such other way as His Excellency in Council may be pleased to determine.

3. The main facts of the case are set out in the papers read in the Government Order of the 5th December 1890 quoted above and the connected correspondence, and need not be recapitulated. It is sufficient to indicate the salient arguments adduced by each of the arbitrators in support of his award. The substantial issue for decision is whether the disputed lands are, as asserted by Madras, an ancient charitable inam grant to Travancore, or whether, as contended by the latter, the lands are a portion of its State territory.

4. A. *For the Travancore State*, the arguments are—

(1) The principle of *uti possidetis* laid down in Government Order, No. 1123, Revenue, dated 29th June 1871, in the

Paragraphs 5—17 of Travancore award. matter of the settlement of the adjacent tract between Mahendragiri and the Aramboli pass must be held equally to apply here. The Travancore State have admittedly been in actual possession, and this is decisive.

(2) The British inam settlement of 1864 and the demarcation of 1867 showing the lands as Madras territory in possession

Paragraphs 18—19 and 28—29 *ibid.*

of Travancore as inam were conducted either during the pendency of the dispute or without reference to Travancore which had no opportunity of discovering the erroneous description of the disputed lands till the tract came later under their own survey operations.

- (3) The levy of road-cess by the Madras authorities being a consequence of these operations are therefore equally

Paragraphs 20 and 39—45 *ibid.*

invalid as proof. A protest was indeed made by the Dewan in 1873 which was answered by the Madras authorities. Nothing was thereupon done by the Durbar, but this inaction cannot be taken as acquiescence, for the "omission to reply is too trivial to deserve any consideration or to bear the interpretation put on it. \* \* \*. So serious a question as territorial dispute cannot admit of solution on such a flimsy ground as the omission on the part of the State to follow up a correspondence."

- (4) The Travancore State accounts of Malayalam Era 972 and 977 (A.D. 1793 and 1803) contain nothing suggestive of an inam grant.

Paragraph 22 *ibid.*

- (5) Certain British accounts of 1849 prepared "on the basis of the Travancore accounts by the British local officials," in describing the measurements of the tract, make no reference to the inam character

Paragraph 23 *ibid.*

of the disputed fields, but enter it as part of the chattarbhagam tract of Travancore.

- (6) In the Travancore village accounts the disputed area forms a part of the tract of country originally granted by the Travancore State on chattarbhagam tenure.

Paragraph 24 *ibid.*

- (7) Litigants spontaneously resorted to the Travancore courts for the legal settlement of disputes connected with the land, thereby showing local recognition of the jurisdiction.

Paragraph 25 *ibid.*

- (8) Ward and Conor's Trigonometrical survey map shows the boundary of the State as including the area in question, notwithstanding that the natural features of the country would favour another line.

Paragraph 26 *ibid.*

- (9) The entry in the British ayacut account of fasli 1212 (M.E. 979) of the land as inam is meagre in detail and conflicts with entries in the inam settlement and revenue settlement registers.

Paragraph 27 *ibid.*

- (10) The "olugu" field numbers of the British inam settlement register are not identifiable with the disputed lands, and suggest that the registry of the lands as inam at the settlement did not rest on

Paragraphs 28—38 *ibid.*

any ascertained data; and one field is found not to be inam at all.

B. For the Madras Government, the arguments are—

- (1) The ancient ayacut account of fasli 1212 (A.D. 1803) and the jamabandi accounts of fasli 1217 (A.D. 1808), together with the jamabandi account of fasli 1254 (A.D. 1845) based on these,

Paragraph 17—Mr. Varada Rao's award.

\* 1 Chain = 3.61 acres.

describe the grant of the lands in dispute, measuring 25½ local chains,\* as rent-free inam to the Travancore State for the maintenance of a water-pandal in the village of Muppandal. The possession of the State is therefore not possession in right of territorial jurisdiction, but possession as

Paragraph 10 *ibid.*

inamdar; and the principle of *uti possidetis* has thus no application. The documents mentioned are public documents duly authenticated the genuineness of which the Travancore arbitrator admits. The "olugu" numbers comprising the inam as described in the registers of faslis 1217 and 1254 have also been substantially proved to be

Paragraph 20 *ibid.*

identical with the survey fields in dispute. The difficulty about one number (Survey No. 1526) has been explained.

- (2) In 1864 the lands were confirmed by the Inam Commissioner on the same tenure, the settlement being of an open and public nature conducted on the spot in accordance with a legislative enactment.

Paragraph 18 *ibid.*

- (3) In 1867 the lands were territorially surveyed and demarcated as British, and in 1877 were dealt with by the British Settlement department. These operations were notorious, and the Travancore Durbar had the opportunity of knowing what was going on, and was indeed specially informed of the same. But their claim was not promoted till 1887.

Paragraphs 22—24 *ibid.*

- (4) From a time anterior to 1872, the British Government imposed and collected cesses on the lands and the occupants. An objection raised in 1873 by the Durbar to the imposition of road-cess was met by referring them to the tenure of the lands, and asserting the jurisdiction of the British Government. This view was acquiesced in, for no counter-claim was made by Travancore till 1887 or 14 years afterwards.

Paragraph 24 *ibid.*

- (5) The Travancore village accounts of Andu 977 (A.D. 1803) relied on as showing that the lands were then registered as within the boundaries of the State were not forthcoming till a late

Paragraphs 4—9.

stage, are not duly authenticated, and are suspicious, untrustworthy and valueless in support of the Travancore claim. Even if accepted, the accounts merely show the collection of revenue which is a necessary incident of the inam tenure enjoyed by the Native State and are wholly consistent with the British claim.

- (6) The lands in dispute have not, as alleged on behalf of Travancore, been recognized as within its territorial limits by responsible British officers. Ward and Conor's map of the early years of the

Paragraphs 12—13 *ibid.*

century has been disclaimed as authoritative on questions of common boundary by both parties.

- (7) Nor is the adduced evidence that the lands were by local repute in Travancore territory of any value. That a Travancore court assumed jurisdiction in a certain particular litigation of a

Paragraphs 14—16 *ibid.*

private and personal character is not entitled to any weight.

- (8) There is nothing unusual in the fact of a Native State enjoying an inam grant in alien territory to support one of its charities; and in the circumstances of this case, the existence of such a grant is quite natural.

Paragraph 21 *ibid.*

Paragraphs 25—26 *ibid.*

- (9) The topographical features of the tract are in favour of the line claimed.

5. These being, in summary, the facts and arguments or inferences on which the awards are based, it may be convenient that I should offer a few observations on one or two references in these documents which seem to require elucidation—

(a) In paragraph 10 of his report, M. Varada Rao writes "if the Madras Government has collected cesses thereon in their sovereign power from fasli 1292 (1882, (this fact not being denied). \* \* \*. Apparently the year should be fasli 1282 (1872), and not as written, probably, by inadvertence. The Travancore arbitrator, in para. 40 of his award, admits collections from 1872, and the original correspondence bears out the fact.

(b) In paragraph 12 of his report, Mr. Varada Rao, after referring to Mr. MacGregor's letter, dated 30th May 1866, cited by the Travancore arbitrator, goes on to say:—"In the first place there was no dispute whatever in 1869 regarding any boundary south of Aramboli pass." The statement is not quite accurate; but it

is made in relation to the general argument of the paragraph, and probably means that the dispute under consideration in 1869 did not then embrace the question of boundary south of the pass. In his letter of 31st March 1868, No. 1344, the Dewan of Travancore, writing to the British Resident, observes (paragraph 13):—"It is only right to add that the disputed boundary south of the Aramboli pass still remains to be settled. There the Tinnevely authorities claim nothing, but the Travancore Sirkar lays claim to some lands now in the possession of Tinnevely." Thus there *did* exist in 1869 a claim affecting the line south of the pass, but it will be seen, and this is worthy of careful note, that the claim was to lands *admitted* to be in the possession of Tinnevely.

(c) In paragraph 23 of his report, the Travancore arbitrator refers to a bundle of cadjan accounts of 1849 "prepared on the basis of the Travancore accounts by the British local officials." He gives no detailed description of these accounts; nor does Mr. Varada Rao in his award anywhere mention them. They are claimed by the former as giving measurement which enclose the lands in dispute within the Travancore limits. The Travancore arbitrator concedes that the origin or history of these accounts is unknown. I have examined the cadjans which were sent to the arbitrator from the Nángunéri taluk. They are headed "measurement olugu account of Punjab azmaish (measurement of unirrigated lands) of current fasli 1259 in the village of Sokkandda Boopala Samudram (with hamlet) of Kila Aramboli." They then go on to state that the azmaish or survey was conducted by certain persons named who appear to be all British officials and include the taluk gumastah and the karnams of the neighbouring British villages. Measurements are then given in detail which comprise a total area of 1,636½ chains. There is no reference to Travancore territory throughout. It is not a regular village account. It is the record of a survey conducted for some special purpose; but under what authority is not indicated. Nor even, if the inferences drawn from it by the arbitrator were valid, is it explained how it possesses any value by way either of proof or of admission.

6. If the matter is now to go before a third arbitrator for final decision it will be desirable, when the British case is represented before him, to expose fully and clearly the fallacy of the Travancore argument based on the assumed application of the principle of *uti possidetis*. As pressed in the Travancore award the argument is in many places an excellent example of the logical error of *equivocatio*. For the maxim of *uti possidetis* to have any application, the possession in either case must be *ejusdem generis*; and in this instance the possession required is the possession incident to territorial jurisdiction, not the possession of mere occupancy nor on any title short of territorial right. And the claim must be founded on clear and convincing evidence of the exercise of unequivocal acts of such authority. An inam grant confers the right to collect the Government Revenue (not *rent* as erroneously stated in the

\* Board's Proceedings of the 5th December 1890, No. 987, Revenue, page 6.

Acting Collector's letter of 3rd \* July 1890, No. 540), and thus to deal with the ryots in numberless ways as the Government which granted the inam may deal

with them. Accordingly it is not enough to refer to ambiguous acts of this kind as proof of a higher title when the primary issue itself is as to the nature of the possession and when there is evidence on the other side of the exercise of acts such as taxation indisputably those of a ruling power.

7. Finally, I may, perhaps, be permitted to recommend that if the ultimate decision is in favour of the Madras Government, steps should be taken to bring the inam tenure to an end by a payment to the Travancore Durbar on proper and if need be liberal pecuniary valuation. The acquisition by Native Chiefs of landed proprietary rights in British India is, owing to the false or difficult position in which it tends to place the Chief, and the pretensions it occasionally excites, encumbered with many obvious inconveniences, and accordingly the Government of India has, besides discouraging or prohibiting such acquisitions, always considered it desirable to put an end to the relation on the occurrence of a fitting opportunity.

8. I regret the delay in forwarding these papers. But the case was new to me, and, in the press of other business, I required some time to study it.

## ENCLOSURE No. 1.

## AWARD.

1. The Government of Travancore claims three tracts of land hereunder \* mentioned, alleging that these three tracts form part of the Thovallah taluk of the Travancore State; that the assessment thereon has all along been paid to the said State; and that they have been

wrongly demarcated as part of the Palavur village of the Nángunéri taluk in the district of Tinnevely. On the other hand, the Government of Madras rests its claim to the three fields on the ground that they lie within the British territories.

2. The disputed tract consists of three pieces of land bearing Survey Nos. 1348, 1499 and 1526. They measure acres 93.03. The real question in dispute is whether the said lands lie within the territorial jurisdiction of British India or of the Native State of Travancore. There is no question at present as to which Government is entitled to actual possession, for it is all along admitted on behalf of the Madras Government that the lands, or at least the first two of them, were granted as rent-free inam to the Maharajah of Travancore for maintaining a water-pandal in Muppandal, a village in his Highness' territory.

3. The evidence adduced on behalf of the Travancore State in support of its claim may be placed under the following :—

(a) The disputed plots are entered in the village accounts of M.E. Andu 977 as forming part of the Travancore State and lying within its boundaries.

(b) The said lands have been for a long time in the undisturbed possession of the Travancore authorities and the assessment due thereon has been collected by them.

(c) The jurisdiction of the Travancore State in respect to the disputed lands has been recognized by the British officers and by the subjects of both Governments.

4. I shall deal with these *seriatim*. First, as to the village accounts of the Travancore State of Andu 977 which corresponds with the British fasli year 1212—no doubt these were now produced before me. Speaking of these accounts, Narasimulu Iyer, the Acting Tahsildar of Nángunéri taluk, in his report to the Head Assistant Collector, dated 30th May 1887, No. 373, states as follows:—"I examined the accounts of the Travancore Government and the Karnams; Lands Nos. 1499 and 1398 (evidently a mistake for 1348) are described as Nattamvilai, 4th Kannar, Nos. 1 to 13, and No 1526 as 'lekkukadu, 7th Kannar, No. 21, in the village account of Thovallah. The earliest account is the one prepared in Andu 977 and every year's account shows these lands." This report of the Acting Tahsildar was found after a careful inquiry to be misleading and untrustworthy. Most of the material statements contained in the said report were subsequently demonstrated beyond all doubt to be incorrect. Mr. E. C. Rawson in his report to the Collector of Tinnevely, dated 12th April 1888, No. 171, clearly states that he examined the karnam of Thovallah village and the accounts produced by him; that there existed

1. Letter from the Acting Head Assistant Collector, Tinnevely, to the Collector of Tinnevely, dated 13th December 1887.
2. Letter from the Collector of Tinnevely, to the Resident of Travancore, dated 24th December 1887.
3. Letter from the Resident of Travancore, to the Collector of Tinnevely, dated 24th January 1888.
4. Letter from the Resident of Travancore, to the Collector of Tinnevely, dated 30th January 1888.
5. Letter from the Head Assistant Collector of Tinnevely, to the Collector of Tinnevely, dated 7th March 1888.
6. Letter from the Collector of Tinnevely, to the Resident of Travancore, dated 15th March 1888.
7. Letter from the Dewan of Travancore, to the Resident, dated 29th March 1888.

no Travancore ayacut account for the lands in dispute; that the lands do not appear in any of the Travancore accounts prior to Andu 1009 (1833-34); and that the accounts produced before him, which were stated to be all that were forthcoming either from Thovallah village or from the taluk, do not go behind Andu 1009 (1833-34). Mr. Rawson before submitting this report particularly wanted to inspect the ayacut account of Andu 977, and the other accounts relating thereto *vide* the correspondence noted in the margin. The letters 1, 2, 4, 5, 6, and 7 noted in the margin make a clear reference to the ayacut account of the Travancore state and show that the Travancore authorities were repeatedly asked to forward the ayacut account of 977 to Mr. Rawson, and in the letter, No. 7, the Dewan expressly states that he issued instructions to the Dewan Peishkar of the Southern Division to arrange at once for the production of the account together with the others called for before the Head Assistant Collector of Tinnevely.

5. Notwithstanding all these attempts on the part of Mr. Rawson to obtain the production of the ayacut account of the Travancore State to test the accuracy of Tahsildar Narasimulu Iyer's report, they were not forwarded by the Travancore authorities when they were demanded, *i.e.*, immediately after the dispute arose. Besides, Narasimulu Iyer does not clearly state in his report that he personally saw the ayacut accounts. If the careless report of the Tahsildar and the inaccuracies subsequently discovered therein were a correct indication of what transpired at the time of his inspection, it is quite possible that he may have acted entirely on the hearsay statements of the karnam of the Travancore State examined by him.

6. The same karnam of Thovallah who appeared before Narasimulu Iyer appears to have attended Mr Rawson when he made his inquiry in April 1888. It is now suggested that this karnam did not fully understand the scope of the second inquiry by Mr. Rawson; that the instructions sent to the karnam were not definite; and that the ayacut account of 977 was not so readily accessible to the village officials as the current accounts. I regret I am unable to accept this as a satisfactory explanation for the non-production of the ayacut accounts before Mr. Rawson in 1888, for the correspondence marginally noted in paragraph 4 aforesaid clearly shows in unmistakable terms that the said ayacut account of Andu 977 was specially called for by Mr. Rawson and that the Dewan of Travancore stated in his letter of 29th March 1888 referred to above that he sent urgent instructions to the Dewan Peishkar of the Southern Division to arrange at once for sending the accounts called for by the British officers of Tinnevely. Hence it is evident that clear and definite instructions were issued to the Travancore officials by the Dewan for the production of the ayacut account of Andu 977 before the then Head Assistant Collector of Tinnevely. The instructions having been issued to an officer in the position of a Dewan Peishkar in whose power it was to get the said ayacut account wherever it may have been, it is now idle to suggest that the said account was not within the reach of the karnam of Thovallah or that the instructions issued to him in respect of their production were vague and indefinite.

7. Further, when this matter was again referred by the Board of Revenue to Mr. J. H. A. Tremeneheere for report, on the letter of Mr. Shungara Subbayer, Dewan Peishkar, dated 28th March 1890, No. 12, Mr. Tremeneheere observes that even then, the ayacut account of Andu 977 or even an extract from it was not produced before him. It therefore clearly appears that the Travancore officials failed to produce the account on former occasions when their production was most material to their cause and on one occasion particularly when their production was called for by one of the contending parties.

8. In estimating the value of the evidence afforded by the now produced ayacut of Andu 977, I must take into account the two facts, that no reason which I can consider satisfactory is assigned for its non-production on two former occasions, and that the account is on examination found to have been prepared in an irregular if not careless way. These accounts are not signed by any individual. There is no evidence to show by whom the accounts were prepared or under what circumstances and authority. They do not *prima facie* show that they were prepared by a public servant in the discharge of his official duty. They are not authenticated by any public official. The measurements entered in the said accounts do not appear to have been made on any scientific principles or upon any professional survey or even by rough actual measurements of the lands. The entries as to the extent, &c., of the lands mentioned in the said account appear to have been made on estimate based on mere ocular inspection. I do not, therefore, think it proper to give any weight in my award to the said ayacut account of Andu 977, now produced before me.

9. Even if the said account be legally admissible in evidence and can be acted upon I do not think that the said accounts help us in arriving at a satisfactory decision in respect of the matter in question. The utmost that the accounts could be said to show, is that the lands in question were held by certain tenants in Thovallah village and that the Travancore State collected rents from them. This is not inconsistent with the claim advanced on behalf of the British Government. The latter do not deny the actual possession of the lands in question by the Travancore State, but what is asserted is, that the possession of the Travancore State is that of a donee from the former rulers of Southern India now represented by the British Government and that the lands in question lie within the territorial jurisdiction of British India. The non-entry in the ayacut accounts of the original nature of the tenure on which the lands in question were said to have been given to the Travancore Government does not in the least affect the issue, for the British Government cannot be made responsible for any acts of omission on the part of the Travancore officials in the preparation of their accounts.

10. Now, as to the second point I have already observed, that the long and actual possession of the disputed lands by the Travancore State and the collection of rents by it are not inconsistent with the claims advanced by the Madras Government. The latter does not now seek to recover or establish its right to actual possession; what is really asserted on the part of the Madras Government is that the lands lie within its territorial jurisdiction, that it has not surrendered its sovereign rights over the same; that the disputed lands were given as inam, rent free, at some remote period to the Travancore Maharajas by the former rulers of Southern India now represented by the British Government, and that the possession held by the Travancore State is in the capacity of a mere inamdar and trustee of the Muppandal water-pandal and not in the capacity of sovereign owner. It was very strongly urged on behalf of the Travancore authorities that in deciding questions as to title to any part of land in the boundary line between two Governments, the principle laid down by the Madras Government in their Proceedings, dated 29th June 1871, No. 1123, Revenue Department, should be strictly followed and that the fact of actual possession should prevail over all other considerations however strong and convincing they may be to show the title in a person other than the actual possessor. On a careful perusal of the aforesaid Proceedings, I cannot conceive that the Madras Government ever intended to lay down any such general and unqualified principle of law as is now contended for by the

Travancore authorities. The facts of the case which the Madras Government had to decide in 1871 were completely different from the facts of the present case. The following expressions appear in the Proceedings: "Under these circumstances His Excellency the Governor in Council is now persuaded that the happiest solution of the difficulty will be found by deciding the question as it affects each tract on the principle *uti possidetis*." I lay a great stress upon the words "under these circumstances" and "as it affects each tract" to show that the Madras Government did not enunciate any general principle of law in the Proceedings for guidance in all future disputes as to boundaries between this Government and the Travancore State. The facts of the particular case then in contemplation before Government required that principle to be adopted. No doubt it is a general principle of law that in a normal state of things actual possession is the outward sign of ownership or title and the actual possessor is presumed to be or to represent the true owner, but it is also equally clear that possession does not necessarily concur with title. Possession in law may be independent of *de facto* possession. If the contention of the Madras Government, viz., that the fields in dispute were granted as inam rent-free to the Travancore State for the support of a water-pandal be true, and if the Madras Government has collected cesses thereon in their sovereign power from fasli 1292 (1882) (this fact not being denied), then the possession of the Travancore State is a mere derivative possession and not in the capacity of a sovereign owner. Hence it can not be treated as hostile to the sovereign right of the British Government.

As to the collection of assessment by the Travancore authorities, I have simply to say that if the lands have been held by the Travancore State as inam, certainly the latter State has leased out the same to tenants and the rent, &c., payable by those tenants and the cultivation raised by them were entered in the Travancore accounts. Hence neither the long possession nor the collection of the rents by the Travancore State is inconsistent with the right set up by the British Government in respect of the fields in dispute.

11. The third head of evidence is that the jurisdiction of the Travancore State in respect of the disputed lands has been recognized by the British officers and by the subjects of both Governments.

12. I shall discuss this matter under two heads—(1) Recognition by the British officers; (2) Recognition by the subjects of both Governments. As to the recognition by British officers, it is alleged that the survey map prepared by Ward and Connor in the beginning of the century shows that the boundary line as marked therein includes the disputed area within the Travancore territories. With reference to this map, I have to state that it was prepared somewhere in the beginning of the century, when the sources of information were scanty and unreliable and when the district was held piecemeal by contending Poligars whose chieftainship changed limits almost every day. Another cogent reason for discarding the said map is that both the British Government and the Travancore State considered that it did not define the boundaries accurately and refused to abide by the same in 1869; as the final decision in the case clearly shows that the map was not relied upon and that a new boundary was fixed. Again recognition on the part of the British officers is said to be contained in a letter of Mr. MacGregor, dated 30th May 1866, when he was in temporary charge of the Tinnevely Collectorate to the Resident of Travancore.

In this letter Mr. MacGregor observed that "as regards the dispute south of Aramboly, we claim nothing beyond what we possess." In the first place there was no dispute whatever in 1869 regarding any boundary south of Aramboly pass. The dispute then related to the boundary line between Mahandragiri and Aramboly pass in the north. The Government of Madras in its Proceedings of 29th June 1871, No. 1123, clearly stated that "with respect to the territories to the south of the pass, His Excellency in Council is altogether unable to agree with His Highness' Government as to the conclusive character of the reasons adduced in support of the Travancore claim and that His Excellency in Council cannot, therefore, on any consideration, consent to hand over the tract south of the pass to Travancore." I am therefore unable to find any recognition of the claims of the Travancore Government to any tract south of the Aramboly pass. But on the other hand, there exists a clear repudiation of the claims of the said State to any tract lying to the south of the said pass.

13. Lastly, the report of Narasimulu Iyer, the Acting Tahsildar of Nanguneri, dated 30th May 1887, was relied upon by the Travancore authorities in support of their claim. I have already observed that the report of Narasimulu Iyer was most misleading and inaccurate and Mr. Rawson in a further report, dated 12th April 1888, No. 171, fully discussed the question and remarked that the report of the Acting Tahsildar of Nanguneri could not be relied upon and that it was a false and inaccurate report. Hence there exists no recognition whatever at any period by any responsible British officer of the claims of the Travancore State with reference to the disputed tracts.

14. As to the recognition by the subjects of both Governments, it is alleged on the part of the Travancore State that the transactions of certain private individuals in respect of the lands in question afford clear evidence of the regal jurisdiction of Travancore State over the said tracts. The said transactions are as follows.

15. A suit was filed in the Munsif's Court at Nagercoil in the M.E. year 1054 for the recovery of one of the tracts in question with mesne profits. This suit was filed by a native of

Palavur village. Three deeds were executed and registered in Thovalai Registry office in respect of certain tracts in question. In all these documents the properties are described as being situate in Thovalai village. Of these documents two can be put out of consideration at once; for they are *post litem motam* as they were drawn up after the Travancore claim was mooted in 1877. It might be true that in 1878-79, the Nagercoil Munsif's Court decided a suit regarding a portion of the lands in question. But it must be remembered that the British Government was no party of any one of these transactions and cannot therefore be affected by the same. Again, there is nothing to show that the parties to the said transactions were acting under an honest or conscientious belief that the Travancore State had jurisdiction over the subject-matter of the said transactions. A wrong and ignorant belief on the part of those people cannot vest in the Travancore Government any sovereign or territorial jurisdiction which it did not inherently possess. It is also a well-established rule, that, in order to render declarations admissible as evidence of reputation, they must have been made *ante litem motam*; and, further, there must be competent knowledge admitted in matters of mere private interest, or to prove a particular fact. Actual inhabitancy in the place the boundaries of which are in dispute is, however, not necessary to render the evidence of reputation, but stress has been laid upon the matter of residence which is only secondary in importance. This disposes of all the evidence adduced on behalf of the Travancore State, and upon a careful and anxious consideration of the whole evidence, I am constrained to observe that the Travancore State has not established its claims to the lands in question.

16. Now turning to the evidence adduced on behalf of the Madras Government, I shall deal with the same in chronological order and show how each item of evidence is relevant and what effect should be given to the same.

17. There are two old accounts produced on behalf of the Madras Government to show the tenure of the lands in question, viz., a cadjan *ayacut* account of fasli 1212 and the inam jamabandi account of fasli 1254. These two accounts are public registers or records prepared by public servants in the discharge of their official duty and they are duly authenticated by the public officials who took part in the preparation thereof. Hence there cannot be any the least doubt as to their genuineness. The *ayacut* account of Palavur for fasli 1212 corresponding to the Malayalam year 977 contains the entry of 26 $\frac{15}{32}$  chains of land which are stated to be held as inam for the Muppandal water pandal, in charge of the Rajah (ரஜகரம் மாக்ஷியம்) and the account of fasli 1254—26 $\frac{31}{32}$  chains of dry land, assessed at Rs. 32-4-0, are entered as inam on account of the Muppandal mattam water-pandal in charge of the Rajah (ரஜகரம் மாத்தியத்தில்). There can be no question as to the genuineness of these entries. It is impossible to account for these entries in the old accounts except on the hypothesis that the lands were granted as rent-free inam to Travancore at some remote period for maintaining a water-pandal at Muppandal in that territory. The said accounts undoubtedly show that the lands were looked upon as part of the Palavur village in fasli 1212, and that they were then stated to be "in possession of the Rajah." These facts, I think, conclusively establish that the lands in question were not treated in fasli 1212 as part of the Travancore territory, but as a portion of British territory given to the Rajah as inam.

18. Again in 1864, the lands in dispute were confirmed by the Inam Commissioner as a rent-free inam for the upkeep of a water-pandal in the Travancore village of Muppandal, and a title-deed was accordingly issued on the 2nd August 1865 in the name of the manager for the time being of the said water-pandal though it has not been delivered, no one having claimed the same since the said date. The inam register prepared by Mr. A. Narayana Rao, the Deputy Collector, then in charge of the inam inquiry in this district, shows that 6 pieces of land bearing olugu Nos. 60 to 62-68-73 and 81 and measuring 26 and odd chains, equivalent to acres 97-60, constituted the inam for the water-pandal at Muppandal. The Deputy Collector on inquiry made the following remarks in his registers: "This inam does not appear in the early accounts available. It appears first as inam in the register of fasli 1254, where it is described as recorded in the jamabandi of fasli 1217. But the jamabandi of fasli 1217 is not forthcoming either in the taluk records or with the karnam." On a subsequent inquiry, however, the British Government were able to trace out the *ayacut* account of Palavur for fasli 1212 as also the jamabandi account of fasli 1217 referred to as missing in the said inam register. These accounts fully support the theory of inam grant advanced by the British Government. It is urged on behalf of the Travancore State that the inquiry by the Inam Deputy Collector was made without any notice whatever to the said State and that therefore the decision of the inam authorities does not bind Travancore. But it must be remembered that the investigation regarding inams in the Presidency of Madras was held under a legislative enactment and under rules issued by the Executive Government in conformity therewith. The powers possessed by the Deputy Collector employed in the said department were of a quasi-Judicial character and the investigations made by him or his officers were of a public nature. It is impossible, therefore, to suppose that the officials of the Travancore State employed in the vicinity and much less the tenants who held the lands in question were ignorant of the public proceedings of the Inam

Commissioner. A further question was raised as to the identity of the olugu numbers mentioned in the inam register with the survey Nos. 1348-1499 and 1526 now in question. The kannars or divisions entered in the inam register are found divided into several survey numbers and also one survey number in some cases appears to cover several olugu numbers. Again, the olugu numbers in each kannar are counted in separate series. In this state of confusion it is impossible to identify exactly each olugu number. However, a Revenue Inspector was deputed on behalf of the Madras Government to go over the tracts in question and trace out, if possible, the old olugu numbers with reference to the present survey numbers in question. The Revenue Inspector who was employed on this behalf in spite of the aforesaid difficulty submitted a report in which he states that he made a measurement of the lands in the 5th kannar of Palavur village according to the old olugu account and the adangal accounts now available and arrived at the following conclusions:—

- (a) Olugu Nos. 60 to 62 which are entered as inam are found on measurement to form a part of Survey No. 1499-A and B.
- (b) Olugu No. 68 also forms part of No. 1499-C.
- (c) " " 73 is included in Nos. 1499 and 1348-D.
- (d) " " 81 is measured as Survey No. 1348.

Objection has been taken to this report of the Revenue Inspector on the following grounds:—

- (a) Olugu Nos. 61-62 and 73 could not be identified at all and traced on the ground.
- (b) Olugu No. 60 partly enters into Survey No. 1505.
- (c) A portion of Survey No. 1348 is uncovered by any olugu number.

19. As to the objection (a) the report of the Revenue Inspector based on personal inspection and measurement is a convincing proof that the said Nos. 61-62 and 73 could be identified and were actually identified on the ground. As to the objection (b) it has already been pointed out that one olugu number has been distributed among several survey numbers and it is quite possible that the Iyen portion of No. 60 may have been measured in the Iyen survey No. 1505. As to the objection (c), the Revenue Inspector in his report states that on proper measurement of the whole fields No. 1348, the portion not covered by olugu No. 81 must be No. 73, which is classed as inam.

20. There remains now the survey No. 1526, no doubt it is entered in the 4th kannar in the old olugu accounts prior to the survey, whilst all the inam lands of the Muppandal charity are entered as situate in the 5th kannar in the inam register. This may be a mere mistake or the Kunnar might have undergone certain changes in later times as pointed out above. The whole extent of the aforesaid six olugu numbers entered in the inam register measures 26 $\frac{52}{64}$  chains equivalent to acres 97-60. The old *ayacut* account of fasli 1212 gives the measurement of the total inam lands in the village of Palavur as 26 $\frac{15}{32}$  chains and the inam jamabandi account of fasli 1254 describes the extent as 26 $\frac{30}{64}$  chains; it is an admitted fact that there exists no other inam land in Palavur village. The extent of the three Nos. 1348, 1499 and 1526 as given by the survey is acres 93-03, which is less than the extent given in the aforesaid *ayacut* and jamabandi accounts. Hence the survey No. 1526 must form part and parcel of the inam granted for the Muppandal water-pandal both by reason of its contiguous position and its area as determined by the survey. In connection with this part of the case, I deem it proper to refer to certain accounts produced by an alleged old karnam of Palavur village. The said accounts purport to be the adangal register of fasli 1285. They were not produced from the taluk cutcherry, but from the house of the said old karnam. They are not duly authenticated and *prima facie* show that they were not regularly kept. They contain interlineations and no explanation whatever was given when they were made and why? The old man who produced the accounts had ceased to be a karnam more than 20 years ago. He produced them for the purpose of identifying the olugu numbers entered in the inam register with the present survey numbers. No doubt there are some entries in the said adangal register of survey numbers opposite to certain old olugu numbers, but there are several omissions in the column for survey numbers which ought to have been entered if the said register had been duly kept. I cannot therefore attach any importance to the said adangal account, and I mention this fact because the arbitrator on behalf of the Travancore State made a special reference to this circumstance in paragraph 32 of his award.

21. It was argued on behalf of the Travancore State that the water-pandal in support whereof the lands in question were alleged by the Madras Government to have been given as inam is admittedly situated within the Travancore territory and it is not likely that the British Government or the former rulers of Southern India would have made any grant of land in support of a charity in a foreign State. It was also argued that the cost of maintaining the water-pandal charity now amounts to Rs. 400, and that the annual revenue derived from the said lands is Rs. 32 $\frac{1}{4}$ . These arguments do not appear to me to carry any weight whatever, for it is well known that grants of land have been allowed to keep up charities in other parts of India with which the Madras Government has no concern whatever, and that several independent

Native Chiefs have made large endowments of lands for temples and other religious or charitable institutions exclusively situate within British India. Again, the water-pandal in question situate as it is on the trunk road from Tinnevely to Travancore is greatly utilized by pilgrims from British India. No doubt the present cost of maintaining the said charity may be Rs. 400 a year, but the grant consists of 93.03 acres of land and we have nothing to do with the actual revenue with which the land is assessed. The grant of land to keep up a charity is not likely to be refused by the ruler of the land of charity and there is nothing derogatory so far as I can see in the position of a trustee.

22. The next act of British Government in respect of the lands in question consists in demarcation, survey and settlement. The demarcation took place in 1867 and the settlement was made in 1877. The three tracts in question, viz., survey Nos. 1348, 1499, 1526, were demarcated in 1867 as forming part of the British territory and in 1877 the same lands were dealt with by the Revenue Settlement Department. Two of the aforesaid Nos. (1348 and 1499) were entered as watershed inam, while the third No. (1526) was treated as unoccupied Government land. This latter entry was evidently a mistake, for all the three numbers constitute the water-pandal inam and their extent, as entered in the inam register and pointed out in paragraph 20 aforesaid, corresponds very nearly with the extent entered in the old ayacut account of fasli 1212 and the jamabandi account of fasli 1254. Hence it is clear that the British Government has openly and publicly always treated the lands in question as theirs, territorially surveyed the same and settled them as forming part of their Palavur village of the Nanguneri taluk in the district of Tinnevely.

23. With respect to this matter it is urged on behalf of Travancore State that both the survey and settlement having been made by the British officers behind the back of the Travancore State, the latter had no notice of the same and that they discovered only in 1887, during the demarcation and survey of their Thovallah taluk, that the fields in question were wrongly included in the British territory.

24. On a careful perusal of the records, I understand that so long back as in 1874, the survey plans of all the villages situate on the boundary line between the British Government and the Travancore State, prepared by the Government officials of British India, were sent to the Travancore Government through the Resident at his requisition. The plans show beyond all doubt that the disputed lands were demarcated as forming part of Palavur village. It is therefore not quite correct to state that Travancore authorities were not aware of the Revenue Survey in 1867. It also appears from a letter of Mr. Puckle to the Resident of Travancore, dated 27th December 1873, No. 1392, that a copy of the inam register was forwarded to the said State for information. Hence it is overstating the facts to say that both the Travancore Government and its ryots have all along remained in utter ignorance of the inam inquiry in 1864 and of the fact showing the sovereign rights of the British Government over the lands in question is the subsequent survey and settlement in the years 1867 and 1877, respectively. Another important fact showing the sovereign rights of the British Government over the lands in question is the imposition and collection of cesses from the tenants who held the lands. As will appear from Mr. Ballard's letter, the British Government have unquestionably levied cesses on survey Nos. 1348 and 1499 before 1872 and collected *sevai jama* charge on the third land No. 1526, whenever it was brought under cultivation. Those tenants at least who were principally concerned in the payment of the cesses must have been aware of the exercise of sovereign acts of ownership on the part of the British Government. In 1873, no doubt a letter was addressed to the Collector of Tinnevely by Mr. A. Seshia Sastry, the then Dewan of Travancore, complaining of the collection of road-cess by the British Revenue authorities on certain lands situate in Chokkanatha Bhopala Samudram lying to the east of Aramboly lines, but Mr. Puckle in his reply, dated 27th December 1873, clearly stated that the inam lands in question form survey Nos. 1348 and 1499, and were settled by the Inam Commissioners as "tannir pandal moniam." The said officer has further remarked that the collection of the road-cess on the estimated assessment of those lands was perfectly regular and has continued unquestioned hitherto. The Travancore State appears to have been perfectly satisfied with the information furnished by Mr. Puckle as it took no further action in the matter.

25. In determining a boundary line between two States it is a fundamental principle of law that the highest regard should be paid to natural boundaries.

26. A reference to the village map of Palavur and the position of the lands in question, especially Nos. 1348 and 1499, will at once show that it is difficult to suppose that they form part of the Travancore State. These two numbers stretch in one block of irregular shape far into the lands of Palavur, though touching those of Travancore on the north. The lands are surrounded on the other side by the lands of Palavur. As to the land No. 1526, no doubt it is detached from the other two fields, but it is also at one point contiguous. Narasimulu Iyer, the Tahsildar of Nanguneri, reported that there is a rock to the east of the said number and that the British boundary stopped there. I do not think that this rock determines the territorial boundary, for the reasons I have already stated at length in support of the proposition that the survey No. 1526 must form part of the original inam grant.

27. In conclusion, I must lay stress on the intervals of the long silence of the Travancore Government in putting forward their claims to the disputed tracts. No objection was taken to

the inam settlement in 1864, nor to the survey and settlement operations in 1867 and 1877; nor to the imposition and collection of cesses on the lands. This inaction on their part is tantamount to a complete acquiescence of the claims of the British Government in respect of the lands in question.

28. I regret, therefore, to be unable to concur with Mr. Sankara Subbier in the award which he has made, being of opinion that the Travancore State has not made out a case for the surrender of the three pieces of land in dispute.

November 1891.

(Signed) T. VARADA RAO,  
Arbitrator for the British Government.

#### ENCLOSURE No. 2.

#### MEMORANDUM.

The case referred for arbitration under the order of the Madras Government, dated 5th December 1890, No. 987, Revenue, relates to a tract of land comprising—

|                |     |     |     |     |     |       | ACS.  |
|----------------|-----|-----|-----|-----|-----|-------|-------|
| Survey numbers | ... | ... | ... | ... | ... | 1,348 | 58.32 |
| Do.            | ... | ... | ... | ... | ... | 1,499 | 31.74 |
| Do.            | ... | ... | ... | ... | ... | 1,526 | 2.47  |
| Total          | ... | ... | ... | ... | ... | ...   | 93.03 |

The first two numbers are contiguous to each other while the third lies detached.

2. At the survey and settlement of the Tinnevely district in 1867, this tract was demarcated into the British village of Palavur, Nanguneri taluk.

3. Travancore claims it as part of its territory on the grounds (1) that it is included as such in its state accounts from the earliest period; (2) that it has been in long and undisturbed possession of it, collecting the revenue thereon, without let or hindrance; and (3) that its regal jurisdiction has been recognised by both Travancore and British subjects.

4. The first inquiry into the claim by the Tinnevely authorities resulted in their recording a finding in full support of it. Subsequently, however, the Head Assistant Collector and the Collector of Tinnevely expressed themselves adversely to Travancore owing to the discovery of certain old documents.

5. While Travancore's long and undisturbed possession is admitted, it is contended on the British side that the lands in question form an inam grant allowed to Travancore for the Muppandal water-pandal and that they are within British territory.

6. It should be noted here that as regards survey number 1526 it is not entered as inam at all in the Settlement Register of Palavur village, but as unoccupied Government land. This entry is now held to be a mistake—vide Revenue Board's Proceedings\*.

\* Dated 22nd May 1888, No. 256.

7. In the correspondence which immediately led to the order for arbitration, the question underwent some discussion with reference to what was adduced on both sides.

8. The arbitrators have now been able to sift the matter fully by the light of that discussion, and the records produced on both sides.

9. Among the records were the correspondence which took place in 1871 and the final order passed thereon by the Madras Government, dated 29th June 1871, No. 1123. These papers were referred to on the British side as raising a plea of *res judicata* affecting the present question. On a careful perusal, however, the arbitrators have agreed in the conclusion that the subject of the present arbitration was not the tract directly dealt with therein in connection with the boundary line south of the Aramboly pass.

10. That was a tract which Dewan Sir Madava Row, in his letter † to the British Resident, dated 25th November 1869, describes as part of the Kadukaval lands and measuring 712 chains or 2,581 acres and admittedly in the possession of the British Government.

† No. 5142—R. 1504.

11. This was the only tract then in dispute affecting the boundary between the two states south of the Aramboly pass. Alluding to this boundary Sir Madava Row says: "It is only right to add that the disputed boundary south of the Aramboly pass still remains to be settled." There the Tinnevely authorities' claim nothing; but the Travancore sircar lays claim to some lands now in the possession of Tinnevely—vide paragraph 13 of Sir Madava Row's letter, dated 31st March 1868, No. 1344—R. 358 quoted in Madras Government Proceedings of 7th May 1869, No. 144.

12. The same view was expressed by Mr. MacGregor when in temporary charge of the Tinnevely Collectorate. He observes: "As regards the disputes south of Aramboly, we claim nothing beyond what we possess. I am aware that the sircar claims a certain extent of territory there which is in our possession"—*vide* paragraphs 3 and 4 of his letter to the British Resident, dated 30th May 1866, No. 426.

13. It is thus clear that in connection with the boundary south of Aramboly, the British Government claimed nothing which was in the actual possession of Travancore, and the only dispute which then existed involved the claim of Travancore to a certain tract in the possession of the British Government, that tract being, as already stated, a part of the Kadukaval lands and measuring 2,581 acres in extent.

14. Travancore's claim to the said tract, although founded on the concurrent testimony of its own and the British accounts, had to be given up under the order of the Madras Government already quoted, which laid down the principle of *uti possidetis* as the guide for the settlement of the question affecting the southern as well as the northern lines. That "actual possession" was to prevail over other considerations is quite apparent from the concluding part of paragraph 4 of the order. "The Government must also observe that the Government of His Highness, while laying considerable stress on the fact that the disputed territory north of the pass has been in the 'long actual possession' of Travancore, disregard the analogous circumstance of the territory, south, being and having been for long subject to the authorities of Tinnevely."

15. Although the lands now under arbitration did not directly come under the settlement then made, the principle enunciated in the order, I hold, applies to the present question. It was obviously meant to apply to the settlement of the whole boundary line south of the pass as in the case of the northern line between Mahendragherry and the Aramboly pass. The present question concerns the southern boundary. It is but reasonable to suppose that His Excellency the Governor in Council in resolving on the adoption of the principle of *uti possidetis* as the happiest solution of the difficulty, intended it to apply *reciprocally*.

16. If I am right in this view the principle of the Government decision under notice is alone sufficient to negative *in toto* the present contention on the British side as against the admittedly long actual possession of Travancore. This position is all the more strengthened by the fact already pointed out that the British had no claim to any lands on the southern boundary in the actual possession of Travancore, and be it noted that neither in the Proceedings of Government above quoted nor in the correspondence which led to them there was any the remotest allusion to the question of the inam grant.

17. If under the decision the southern boundary had been laid as it should have been by officers of both states, the tract now under dispute would undoubtedly have been declared Travancore territory and demarcated accordingly. For the simple and only question with the officers would be in whose actual possession the tract was and the answer would, of course, be in favour of Travancore.

18. But the Tinnevely authorities conducted the demarcation of the line in 1867 during the pendency of the dispute and prior to the passing of the Government Order of 1871. The tract now under dispute was included in the British village of Palavur at that demarcation without any reference to the Travancore Government. This was done in pursuance of a prior Act in 1864-6 of the Inam Commissioner settling the tract in question as an inam grant of the British Government. Here, too, no notice was given to Travancore. Both Acts were of a kindred character and must be held legally untenable so far as they are discordant with the principle of the final decision of 1871 and with the vested interests of Travancore.

19. In this connection it is but fair to add that when the Government Order of 1871 was communicated to the Travancore Government, this Government proposed to have the boundary marked by officers of both states deputed to the spot. But the Tinnevely Collector wrote back to say that the line had been already demarcated and surveyed and that there was no necessity for further action—*vide* Dewan Sir Madava Row's letter \* to the British Resident, and the Collector's reply. † Thus Travancore had no fair opportunity of discovering the erroneous

\* No. 3282—R.-1008, dated 21st August 1871.  
† No. 598, dated 26th August 1871.

inclusion of the disputed land in the Palavur village except in the course of the survey and settlement operations now in progress here.

20. If neither the Inam settlement of 1864-6 nor the demarcation of 1867 is valid the subsequent Act of demand and levy of road-cess on two of the holdings of the disputed tract must be held equally invalid as it was the outcome of the former action.

21. I shall now proceed to consider the merits of the question in regard to the old state accounts and other records produced on both sides.

22. On the 15th June (ultimo) the disputed tract was jointly inspected by the arbitrators. On the side of Travancore the state accounts were held ready on the spot. They contained not only the ayacut of 977 M.E., but even that of an earlier period, viz., 972. The latter

accounts were examined and with reference to the particulars entered the disputed area was found to be included therein and treated precisely in the same way as the adjacent tract of undisputed Travancore territory. There is nothing in those accounts to suggest the idea of an inam grant.

23. The British ayacut was not forthcoming at the time, though it was produced at a subsequent meeting. But the bundle of cadjan accounts then produced on that side was, on examination, found to contain a detailed account of the whole outlying tract of Travancore territory, including the disputed area. It appears to have been prepared in 1849 on the basis of the Travancore accounts by the British local officials. It bears their attestation. They went over the tract, measured it field by field, and have entered the measurements. Not a word is said by way of remark about the area in question being an inam grant. It is entered as part of the Chaturbhagom tract, the general boundary and the relative positions of the individual holdings being specified in exact accord with the particulars contained in the Travancore accounts. Why this account was prepared cannot be ascertained. But the fact remains that the British records themselves hold evidence of recognition of the disputed area as Travancore territory.

24. According to the Travancore accounts, as already observed, the disputed area forms a part of a large extent of territory, measuring upwards of 3,000 acres, originally granted by the Travancore Government on Chaturbhagom tenure. If the 93 acres under dispute were in reality an inam grant of the British Government, it is far from probable that this area would have been entered and treated under that tenure and still less probable that the Travancore accounts would have been silent as regards the inam.

25. The evidence dwelt upon in the previous correspondence bearing on the recognition of Travancore's regal jurisdiction over the lands in question, by both Travancore and British subjects, remains un rebutted by any counter-evidence. The transactions relating to the lands, however recent, were of a spontaneous character, and the resort to Travancore authorities for legal remedies and guarantees was likewise spontaneous. That these transactions on the part of private individuals were not known to the Tinnevely authorities cannot be taken as any way weakening the evidence. For such evidence, from its very nature, is outside the pale of official influence and has an independent significance. There is nothing to show that the parties to the transactions were imposed upon or acted from ignorance. The natural presumption should be the opposite way. They knew that the lands were in Travancore territory and as the transactions arose they *bonâ fide* acknowledged its regal jurisdiction, as in cases of properties situated in other parts of Travancore. Had there been a single instance of a counter-character, there might be reason to doubt the significance of this evidence. But admittedly nothing of the kind has been found to exist.

26. On the side of Travancore there is one more item of evidence remaining to be noticed. It is the line of boundary marked on Messrs. Ward and Connor's Trigonometrical Survey Map drawn to a scale of one inch to the mile. This map was produced to show that the boundary line, as marked there by a dotted line, takes in the disputed area on Travancore side. According to the demarcation by the Tinnevely authorities the boundary follows the course of a stream all along, but according to Messrs. Ward and Connor the line goes along the stream for some distance and then leaves it, striking right through the dry area and joins the stream again at another point. The disputed area is situated between the stream and the line of boundary deviating from it. Surveyors are generally in favour of natural features for boundaries wherever they could help it. The deviation made by Messrs. Ward and Connor in this respect is therefore not without significance. It is pointed out on the other side that Ward and Connor's line is not accurate all through. It may be so. But what concerns the present case is the portion of the line which bears out Travancore's claim, and when taken along with other evidence it is entitled to consideration.

27. Turning to the items of evidence on the British side, the first and foremost is the ayacut of 979 M.E. or fasli 1212. There is no question as to the genuineness of these accounts. They make mention of an inam grant for the Muppandal water-pandal. There is nothing said as to when, how and by whom the grant was made. The entry is at best meagre. The mere fact of such an entry cannot bind Travancore as a party to the grant when its own accounts point to an opposite version.

28. An extract from the inam register has been produced. In this six olugu numbers are specified as consisting the inam for Muppandal water-pandal. They are stated to be situated in the 5th kannar.

29. The summary of the inquiry entered shows clearly that it was conducted behind the back of the supposed inamdar, viz., the Travancore Government. It is admitted that no notice was sent to the Travancore Government. How the Inam Commission satisfied itself that there was actually an inam grant, beyond what is entered in the accounts, it is difficult to know.

30. The six olugu numbers are 60, 61, 62, 63, 73 and 81 all in the 5th kannar, as already stated.

31. With a view to the identification of these numbers the settlement register of Palavur village was carefully scrutinised. The result was that excepting No. 81, the others were found to

correspond with none of the survey numbers comprised in the disputed area. Even in regard to No. 81, the register contains several survey numbers against which it is entered. One of them is survey No. 1348 included in the disputed area. Granting that this correctly represents the ground as per olugu number 81, there is a considerable difference in point of acreage between olugu number 81 and survey No. 1348. For 48 acres entered against the former there are 58 acres contained in the latter.

32. There was a paper account produced called the Adangal register said to have been prepared in fasli 1285 (1875-76) on regular-field-to field inspection. The first column of figures contains the olugu number and the second the corresponding survey numbers. On examination it has been found that against the olugu numbers specified in the inam register, as constituting the inam grants, no survey numbers are entered.

33. Thus the process of identification of the olugu numbers, with the survey numbers embraced in the disputed tract, has been found to be one of insuperable difficulty.

34. A regular course of field demarcation and survey and a subsequent field inspection by way of check have failed in the matter of identification. Where the field party specially devoted to the work of identification of individual properties, with reference to the old accounts and with comparatively better resources at their command, has so markedly failed, any attempt at identification, at present, cannot be expected to be successful or satisfactory. Still the arbitrators resolved on deputing subordinate officials on both sides to go over the ground with reference to the British records.

35. The result has just been reported by the Deputy Supervisor sent from this office. It is at variance with the settlement register. Three of the olugu numbers, 61, 62 and 73, could not be identified at all.

36. As regards survey No. 1526, which is included in the disputed tract, it is found to be outside the 5th kannar and to belong to the 4th kannar. But according to the inam register the Muppandal inam lands represented by the six olugu numbers are one and all confined to the 5th kannar. Thus, as regards survey No. 1526, at least, it is clearly no inam, even according to the British records. That it is an unoccupied waste, as entered in the settlement, is equally an error. Because it is admittedly in the possession of Travancore bearing a fixed assessment which is as regularly paid as in the case of other holdings.

37. Considering that one of the properties in dispute has turned out to be no inam and that there is so much conflict in the British records themselves regarding the identification of the other numbers representing the grants, the theory of the inam must be held to rest on no substantial basis.

38. The omissions in the registers regarding the survey numbers in question, the conflict in the records and the difficulty of identification, if they are suggestive of any thing, suggest the hypothesis that the entry of the inam grant was based on no ascertained data, and that as the village officials could not trace out the lands concerned, they pitched upon the bordering land of Travancore as an easy solution of the difficulty.

39. The levy of the road-cess on survey numbers 1348 and 1499, comprised in the disputed area, is referred to as evidence of the regal jurisdiction on the part of the British Government.

40. The demand of the cess was made directly on the occupants of the properties without any reference to the Travancore Government. This Government was apprised of the matter for the first time in 1873 through a complaint addressed by the ryots. An open protest was then made by the Dewan in which he drew attention to the coercive measures represented to have been employed for realising the cess—*viz.* the Dewan's letter \* to the British Resident.

\* No. 3799—R. 1252, dated 29th September 1873.

41. It is thus apparent that if the cess was levied, it was levied under duress and by compulsion. The act so far is liable to be viewed as possessing little of the character of unimpeachable evidence. Against evidence so questionable I would set the several instances of spontaneous recognition of Travancore's regal jurisdiction over disputed tract on the part of the individual ryots concerned.

42. In reply to the protest of the Dewan, the Tinnevely Collector urged the propriety of the demand on the lands in question on the ground that they were settled by the Inam Commissioner as "Thanneerpandal Maniyam" and expressed himself in conclusion against the re-opening of the question, as the boundary line south of the Mahendragherry had been fixed and surveyed and mapped.

43. No action seems to have been taken on the reply of the Collector, and it is argued on the other side that this inaction is tantamount to acquiescence on the part of the Travancore Government in the collection of the road-cess and consequent admission of British regal jurisdiction over the disputed tract.

44. The circumstance of the omission to reply is, in my opinion, too trivial to deserve any consideration, and to bear the interpretation put on it. It might be that the matter was lost sight of under pressure of current duties, or that there was inattention or neglect in the depart-

ment concerned. This is a much more natural supposition than the inference of acquiescence. If acquiescence was intended it would have been expressed. At any rate so serious a question of territorial dispute cannot admit of solution on such a flimsy ground as the omission on the part of a state to follow up a correspondence. Dilatoriness and long gaps of silence are incidental to disputes of the kind.

45. As I have already observed the levy of the road-cess is entirely dependent on the previous acts of the Inam settlement and the demarcation of the boundary in question. If they are, as I have shown, without a legal basis, the matter of the road-cess must follow suit. It has in fact no independent position. It must stand or fall with what it was made to rest upon.

46. The foregoing analysis may be thus summarised:—

(1) The legitimate effect of the principle laid down in the Madras Government Order of 1871, on the settlement of the boundary line concerned, is a complete refutation of the contention against Travancore's claim.

(2) The Inam settlement in 1864-66 and the demarcation in 1867 affecting the disputed tract having been carried out behind Travancore's back and prior to the date of the Government Order above referred to, and while the question of the boundary was under discussion, are legally invalid.

(3) The tract has been admittedly in the possession of Travancore from time immemorial and the tax thereon has been collected as in the case of its undisputed territory.

(4) It has accounts from so early a period as 972 M.E., in which the properties in question are included and treated as its territory.

(5) The British records themselves contain a special account prepared in 1849 by the British officials dealing with the disputed area as part of Travancore territory.

(6) The independent testimony adduced, bearing on Travancore's regal jurisdiction over the tract, remains substantially unchallenged.

(7) Messrs. Ward and Connor's line of boundary affords corroborative evidence in favour of Travancore.

(8) So far as the British ayacut of fasli 1212 (979 M.E.), the Inam settlement register and the Revenue settlement register and Adangal register of Palavur village go, though mention is made of an Inam grant, the entries are found in conflict, shaking the credibility of the Inam theory. The olugu numbers specified in the Inam as representing the grant have failed of satisfactory identification.

(9) As regards one portion of the disputed area, viz., survey No. 1526, it has been found to be no Inam at all.

(10) The fact of the levy of road-cess on two of the survey numbers in question has little or no significance as evidence of any legal validity.

47. Such being the *pro* and *con* of the question the balance of evidence is decidedly in favour of Travancore and I feel no hesitation in recording my opinion that the disputed tract is Travancore territory and that the line of boundary as now laid should be so altered as to include it in the Travancore village of Tovalay.

TRIVANDRUM,  
12th July 1891.

(Signed) SHUNGRA SUBBYER,  
Arbitrator for Travancore.

*Resolution*—dated 20th April 1892, No. 179.

Submitted to Government in continuation of Board's Proceedings, dated 2nd December 1891, Mis. No. 8552. The Collector forwards the awards of the two arbitrators, appointed to represent the British and Travancore Governments, in the matter of the disputed sovereignty over 93 acres of land in the Palavur village, Nanguneri taluk, Tinnevely district, the facts of which have been already brought to the notice of Government in Board's Proceedings, dated 22nd May 1888, No. 226, and 24th October 1890, No. 320 (Settlement).

2. As the arbitrators appointed on behalf of the British and Travancore Governments do not agree, the matter will have to be referred for the final decision of the Resident in Travancore as proposed in Government Order, dated 5th December 1890, No. 987, paragraph 2, and accepted by the Travancore authorities in the letter recorded in Government Order, dated 12th February 1891, No. 1007. The Board does not see anything in the memorandum of the Travancore arbitrator that should induce Government to admit the claim of the Travancore Government; so far as the actual exercise of sovereign rights, *i.e.*, the argument of *uti possidetis quā* sovereign, goes, and so far as the admittedly genuine public records go, the claim of the British Government appears to be fully established.

3. Should the Resident finally decide in favour of the British Government, the Board would recommend that the Collector's proposal contained in the penultimate paragraph of his letter read above should be adopted.

(True Copies and Extract.)

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

To the Secretary to Government, Revenue Department,  
with list and enclosures (to be returned).

Copy to the Collector of Tinnevely.

Order—dated 11th May 1892, Mis. No. 2356, Revenue.

The papers received with the foregoing Proceedings of the Board of Revenue will be forwarded, through the Political Department, to the Resident in Travancore and Cochin for final decision with reference to paragraph 2 of G.O., No. 987, dated 5th December 1890.

(True Extract.)

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

To the Resident in Travancore and Cochin, through the  
Political Department, with all enclosures.  
,, the Commissioners of Land Revenue.

READ—also the following letter from J. C. HANNYNGTON, Esq., Resident in Travancore and Cochin, to the Chief Secretary to Government, dated Trivandrum, 14th June 1892, Ref. on C. No. 364:—

With reference to Government Order, Political, R. No. 95, dated the 20th May 1892, I have the honour to forward a copy of my decision in the Palavur boundary dispute, the original of which is deposited in my office.

One hundred and sixty-nine manuscript enclosures and fifty cadjan leaves bearing one number.

2. A copy of the decision has been forwarded to the Travancore Durbar for information.

3. The enclosures forwarded by Government are herewith returned as specified in the margin.

#### ENCLOSURE.

BOUNDARY dispute between British and Travancore Governments regarding the lands of Palavur on the borders of Tinnevely.

#### Resident's award.

This dispute commenced in March 1887, when the Dewan of Travancore represented that certain lands forming part of the Thovallah taluk of Travancore had been erroneously included in the survey of the Nángunéri taluk of Tinnevely.

An inquiry was then made under the orders of the Collector of Tinnevely, the result of which was that the Collector considered that the lands belonged to Travancore, his opinion being based on a report made by the Tahsildar of Nángunéri, from which it appeared that the land was held by one Ambalathaduvar Pillai, a Travancore subject, who held it under Travancore, it having been granted to his ancestors on Chaturbogam tenure, the said Ambalathaduvar Pillai having dealt with the land as being Travancore territory paying assessment to Travancore, at the rate of Rs. 31-12-0 for fields Nos. 1348 and 1499 and annas 14 for field No. 1526, and asserting his rights through the Travancore courts in A.D. 1879.

2. So far as these facts go, they may be taken as undisputed, and it may also be taken as undisputed that this state of affairs has continued uninterruptedly since 1833 A.D. and if the Travancore accounts, subsequently produced, are credited, the same condition existed in M.E. 972 (A.D. 1797).

3. It is an undoubted fact that the British Government levied from the same individual, or from those who held the lands under him, a road cess of Rs. 2-13-0 since A.D. 1872, and levied Sivayamma assessment upon No. 1526, whenever it was cultivated subsequent to the same year (1872).

4. A subsequent and more accurate investigation made by the British revenue authorities disclosed, however, that the lands were entered in the British accounts of faslis 1212 and 1254 (A.D. 1802 and 1844) as being situate in the ayan village of Palavur, and as having been at some time granted as rent-free inam to the Raja of Travancore for the support of a water pandal situated at Muppandal in Travancore.

The Collector also stated that the No. 1526 was incorrectly entered in the Settlement register of 1844 A.D. as "assessed waste" and should have been entered as "water pandal inam."

5. In addition to the considerable correspondence which has taken place in regard to the claims for this land, I have before me the decisions of the arbitrators who have very thoroughly considered and recorded every possible argument in behalf of the claims of the Governments they represent, and a resumé of the arbitrators' arguments by Mr. G. S. Forbes and an opinion of the Board of Revenue, which body does not see anything in the memorandum of the Travancore arbitrator that should induce Government to admit the claim of the Travancore Government. The British arbitrator, Mr. Varada Row, seems to have had the advantage of submitting his award after perusal of the award of the Travancore arbitrator; the latter signed his report on the 12th July 1891, and the former in November 1891.

6. In determining this case I do not consider it to be necessary to enter into the question of the accuracy or genuine character of the accounts produced by Travancore. Whatever questions may have been raised and whatever arguments urged by the British arbitrator as to the unreliable nature of these accounts (which extend back to about the same period as the British accounts), I think I may safely assume that Travancore has been in possession of the land from a period beyond existing record, and has dealt with it as a proprietor, by levying rent since somewhere about the year 1800 A.D.

7. The question is whether this rent was levied by the State as a territorial right, or as a privileged proprietor under the British Government.

8. That, in either case, the accounts should be kept in the ordinary way in which all State accounts are kept, is perfectly consistent with either side of the question. It is the State and not the individual Raja which manages public charitable institutions, and the account would be included in the ordinary revenue accounts of the State.

If the argument of the British, to the effect that the disputed tract was an inam granted to the Raja, i.e., the State of Travancore, for the purpose of maintaining, in whole or in part, a charity useful to subjects of both Governments be correct, the fact that the accounts relating to the tract are entered in the Travancore State accounts in no way tells against that argument.

9. Neither does long continued possession affect the argument. The gift would confer a possession, though it might not transfer a sovereignty, and in the present case the inam, if there was an inam, was for a specific purpose and not absolute, and if it be proved, the disputed tract must be held to be British territory.

10. There is no direct record of any grant of inam; there is, however, strong circumstantial or indirect proof of the existence of an inam.

There are very old accounts relating to the tract in dispute, and these accounts are not impeached by the Travancore arbitrator (*vide* paragraph 27 of his award) and these accounts show that a certain portion of land was in the possession of the Travancore Raja for the purpose of maintaining the Muppandal water pandal.

11. If the sovereignty of these lands had been parted with—if they had been a portion of British territory given to the Raja as territory—they would not have been entered in these accounts at all; there would be no necessity to enter Travancore territory in British accounts, and there would have been still less necessity to re-enter them in the jamabandi accounts of fasli 1254 (A.D. 1844).

12. These accounts, upon which all subsequent operations of the British authorities in respect to this tract were based, satisfy me that there was a grant of land to the Raja for the support of the water pandal; and that the disputed tract formed the inam in question is hardly open to dispute. The locality is very closely identified, and if the inam existed in any other locality, it could be shown by Travancore, which has not been done.

13. The Travancore argument as to Ward and Connor's line is untenable. The probability of the boundary as shown by the natural water-course is in favour of the British claim, and if the survey referred to were to be accepted as evidence at all, it would be merely indicative of the possession, which is admittedly with Travancore.

14. The position and shape of the land entirely favour the view that the land should belong to Tinnevely. The tract is an irregular block extending into, and pretty nearly surrounded by, British territory, being connected to Travancore by a narrow neck, which neck, moreover, is cut right across by the water-course which elsewhere forms the boundary and the natural boundary.

Mr. Shangara Subbyer's argument on this at paragraph 26 is most ingenious, but will not lead me to admit Ward and Connor's survey as evidence one way or the other.

15. The Travancore arbitrator passes over as "too trivial to deserve any consideration" the argument based upon the neglect of Travancore to take any notice of the very distinct assertion of sovereign right made by the Collector of Tinnevely in his letter, No. 1392, dated 27th December 1873, but to any person having a knowledge of the jealousy regarding territorial rights entertained by native states, this tacit acquiescence for fourteen years must appear significant.

In this letter Mr. Puckle asserted the existence of the inam as well as the right to collect cess. With this assertion of right existing, any action of the tenants in making use of the Travancore law courts for settlement of their disputes, &c., in 1879 and subsequently, forms no evidence whatever in favour of Travancore's claim.

16. As the conclusion I have formed in this case is entirely unfavorable to Travancore, it is perhaps only fair that I should briefly give my reasons for rejecting the arguments of the Travancore arbitrator as summed up at paragraph 46 of his award.

(1) This is not a mere question of possession, but a question as to the nature of the possession held by Travancore. Prior to the Government Order of 1871, the British Government was exercising a right of possession by dealing with the land as an inam and making an open inquiry upon the spot as to the nature of the tenancy under which it was held by the Travancore Raja.

(2) The question of the boundary of this land was not under discussion (so far as Travancore was concerned) between 1864 and 1867. The inam settlement and the enquiries relating to this land were carried out publicly and in precisely the same way as in all other cases, there being nothing to show that there was any irregularity whatever, and Travancore has as little right to say that it was done behind her back as any other inamdar who was in any way affected by the proceedings of the Inam Commission.

(3) and (4) The long possession, and the fact of the lands being for a considerable period entered in the Travancore accounts, are admitted, but these facts do not prove sovereign possession and are compatible with the tenure of the land as an inam.

(5) For what purpose the examination of the ground was made in 1849 cannot be ascertained from the record before me, nor can I ascertain that any use was subsequently made of the account then drawn up, so that it does not appear to have been an important or authentic survey, and as compared with the accounts of 1802 and 1814 it is valueless.

(6) This is too general a statement for me to give a specific reply. If it refers to the fact of the tenants having made use of Travancore law courts and institutions, I have already replied to it.

(7) Messrs. Ward and Connor's survey cannot be considered at all as evidence of sovereignty. Whenever that survey has been found unfavorable to the claims of contending parties, that party to whom it was unfavorable invariably treated it as worthless.

(8) and (9) The discrepancies in the ayacut account of fasli 1212, the inam register and the adangal register of Palavur village, do not in any way affect the probability of the inam theory, though they certainly do render the accurate identification of the locality somewhat difficult. The accounts prove to my satisfaction that there was an inam grant to the Raja of lands the area of which correspond to the area of the disputed tract and the locality of which is on that of the disputed tract.

The fact that Travancore denies the existence of any inam does not shake my belief in its existence. That portions of the disputed tract are included in those accounts which prove the existence of an inam is beyond all doubt, and it is sufficiently clearly shown by the British arbitrator at paragraphs 18, 19 and 20 of his award that the lands referred to in the olugu numbers mentioned in the Inam register do form the survey numbers 1348, 1499, and 1526.

(10) The levy of road cess for a period of 14 years subsequent to a protest having been made against the imposition and a consequent assertion on the part of the British of the right to impose the cess has a certain significance, as showing that 14 years prior to opening this dispute Travancore was unprepared or unwilling to assert a sovereign right to the land and for 14 years permitted the British Government to hold unquestioned and uninterrupted sovereign possession.

17 My decision is that the disputed tract forms part of the village of Palavur in the Nanguneri taluk of the district of Tinnevely and is British territory.

No. 1114.

Transferred to the Revenue Department with reference to G.O., dated 11th May 1892, No. 2356, Revenue.

23rd June 1892.

(Signed) J. F. PRICE,  
Chief Secretary.

ORDER—dated 12th July 1892, No. 710, Revenue.

Miscellaneous.

Communicated to the Commissioners of Land Revenue.

2. His Excellency the Governor in Council concurs in the opinion expressed by the Board at paragraph 3 of its Proceedings contained in the first of the papers read above that, in the event of the Resident's award being in favour of the British Government, it would be advisable to bring the inam tenure of the tract in dispute to an end by payment to the Travancore Durbar of reasonable compensation. The Resident in Travancore and Cochin will accordingly be requested in the Political Department to ascertain and report on what terms the Travancore Sirkar will agree to give up its inam rights in the tract in question.

(True Extract.)

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

To the Commissioners of Land Revenue.  
„ the Political Department.

Ed. A. Aubert.

60 Copies.

Original.

Gobt. of {1892} Madras  
REVENUE.

CONCERNS BOTH BRITISH INDIA  
AND INDIAN STATES.

Issued

Recd.

Encl.

G.O., 12th July 1892, No. 710.

JULY.

### Boundary dispute.

Letter from the Resident in Travancore and  
Cochin forwarding a copy of his decision in the  
Palavur —, communicated to the Commissioners  
of Land Revenue, with remarks.

Boundary dispute between  
British and Travancore Governments  
regarding the lands of Palavur on the  
border of Quinevelly.

### Resident's award.

1. This dispute commenced in March  
1887, when the Dewan of Travancore  
represented that certain lands forming  
part of the Thovallak Taluq of Travancore  
had been erroneously included in the  
Survey of the Vangumeri Taluq of  
Quinevelly.

An enquiry was then made under the  
orders of the Collector of Quinevelly, the  
result of which was, that the Collector  
considered that the lands belonged to  
Travancore, his opinion being based  
on a report made by the Sasildar of  
Vangumeri from which it appeared  
that the land was held by one Anibala-  
thadwar Pillai, a Travancore subject,  
who held it under Travancore, it having  
been granted to his ancestors on hereditary  
bagan tenure, the said Anibalthadu-  
war Pillai having dealt with the land  
as being Travancore territory paying  
assessment to Travancore, at the rate  
of

of No 31, 12, 0 for fields n<sup>o</sup> 5340 and  
1199 and annas 14 for field n<sup>o</sup> 1526  
and asserting his rights through the  
Gravancore courts in A.D. 1879.

2. So far as these facts go, they may  
be taken as undisputed, and it may  
also be taken as undisputed that this  
state of affairs has continued un-  
interruptedly since 1833 A.D. and if  
the Gravancore accounts subsequently  
produced, are credited, the same con-  
dition existed in 1872 (A.D. 1797)

3. It is an undoubted fact that the  
British Government levied from the  
same individual, or from those who  
held the lands under him, a land  
cess of Rs. 2-13-0 since A.D. 1872;  
and levied Sivaypancia assessment  
upon n<sup>o</sup> 1526 whenever it was cultivated  
subsequent to the same year (1872)

4. A subsequent and more accurate  
investigation made by the British  
revenue authorities disclosed however  
that the lands were entered in the  
British accounts of Tashies 1212 and  
1254 (A.D. 1802 & 1844) as being  
situate in the Ayan village of Palavut,  
and as having been at some time granted  
as rent-free Inam to the Raja of

Gravancore

Gravancore for the support of a water  
pandal situated at Muppandal in  
Gravancore.

The collector also stated that the  
n<sup>o</sup> 1526 was incorrectly entered in the  
settlement register of 1844 A.D. as  
"Assessed waste" and should have been  
entered as "Water pandal Inam".

5. In addition to the considerable  
correspondence which has taken place  
in regard to the claims for this land,  
I have before me the decisions of the  
arbitrators who have very thoroughly  
considered and recorded every possible  
argument in behalf of the claims of  
the Government they represent, and a  
resume of the arbitrators arguments  
by Mr. G. S. Forbes and an opinion of  
the Board of Revenue, which body does  
not see anything in the memorandum  
of the Gravancore Arbitrator that should  
induce government to admit the claims  
of the Gravancore Government. The  
British Arbitrator, Mr. Parada Row,  
seems to have had the advantage of  
submitting his award after perusal of  
the award of the Gravancore Arbitrator,  
the latter signed his report on the 12<sup>th</sup> July  
1891, and the former in November 1891.

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6. In determining this case, I do not consider it to be necessary to enter into the question of the accuracy or genuine character of the accounts produced by Travancore. Whatever questions may have been raised, and whatever arguments urged by the British Arbitrator as to the reliable nature of these accounts (which extend back to about the same period as the British accounts) I think I may safely assume that Travancore has been in possession of the land from a period beyond existing record, and has dealt with it as a Proprietor, by levying rent since somewhere about the year 1800. A.D.

7. The question is, whether this rent was levied by the State as a territorial right, or as a privileged proprietor under the British Government.

8. That, in either case, the accounts should be kept in the ordinary way in which all State accounts are kept, is perfectly consistent with either side of the question. It is the State, and not the individual Raja, which manages public charitable institutions; and the account would be included in the ordinary revenue accounts of the State.

If

8/8  
If the argument of the British, to the effect that the disputed tract was an *Swam*, granted to the Raja, i.e. the State of Travancore, for the purpose of maintaining, in whole or in part, a charity useful to subjects of both Governments be correct, the fact that the accounts relating to the tract are entered in the Travancore State accounts in no way tells against that argument.

9. Neither does long continued possession affect the argument. The gift would confer a possession, though it might not transfer a sovereignty, and in the present case the *Swam*, if there was an *Swam*, was for a specific purpose and not absolute, and if it be proved, the disputed tract must be held to be British territory.

10. There is no direct record of any grant of *Swam*; there is however strong circumstantial or indirect proof of the existence of an *Swam*.

There are very old accounts relating to the tract in dispute, and these accounts are not impeached by the Travancore Arbitrator (Vide para 27 of his award) and these accounts show that a certain portion of land was in the possession of

of the Travancore Raja for the purpose of maintaining the mappadai works paidal.

11. If the Sovereignty of these lands had been parted with — if they had been a portion of British territory given to the Raja as Territory — they would not have been entered in these accounts at all; there would be no necessity to enter Travancore territory in British accounts, and there would have been still less necessity to re-enter them in the Jamabandi accounts of Fasli 1254. (A.D. 1844)

12. These accounts, upon which all subsequent operations of the British authorities in respect to this tract were based, satisfy me that there was a grant of land to the Raja for the support of the water paidal; and that the disputed tract formed the land in question is hardly open to dispute. The locality is very closely identified, and if the land existed in any other locality it could be shown by Travancore, which has not been done.

13. The Travancore argument as to Ward and Connors line is

— me

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intenable. The probability of the boundary as shown by the natural water course is in favor of the British plain and if the Survey referred to were to be accepted as evidence at all, it would be merely indicative of the possession, which is admittedly with Travancore.

14. The position and shape of the land, entirely favor the view that the land should belong to Trinnevelly. The tract is an irregular block extending into and pretty nearly surrounded by British territory, being connected to Travancore by a narrow neck, which neck moreover is cut right across by the water course which elsewhere forms the boundary and the natural boundary.

Mr. Shaugara Hibbert's argument on this at para 26 is most ingenious, but will not lead me to admit Ward and Connors Survey as evidence one way or the other.

15. The Travancore Arbitrator passes over as "too trivial to deserve any consideration" the argument based upon the neglect of Travancore to take any notice of the very distinct assertion of Sovereign right made by the Collector of Trinnevelly in his letter no 1392 dated

December.

December 27<sup>th</sup> 1878 but to any person having a knowledge of the jealousy regarding territorial rights entertained by native states, this tacit acquiescence for fourteen years must appear significant.

In this letter Mr Puckle asserted the existence of the Iruam as well as the right to collect cess. With this assertion of right existing any action of the tenants in making use of the Travancore Law Courts for settlement of their disputes etc. in 1879 and subsequently, forms no evidence whatever in favor of Travancore's claim.

16. As the conclusion I have formed in this case is entirely unfavourable to Travancore, it is perhaps only fair that I should briefly give my reasons for rejecting the arguments of the Travancore Arbitrator as summed up at para 4.6 of his award.

1. This is not a mere question of possession, but a question as to the nature of the possession held by Travancore. Prior to the G. O. of 1871 the British Government was exercising a

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a right of possession, by dealing with the land as an Iruam and making an open enquiry upon the spot as to the nature of the tenancy under which it was held by the Travancore Raja.

2. The question of the boundary of this land was not under discussion (so far as Travancore was concerned) between 1864 and 1867. The Iruam settlement and the enquiries relating to this land were carried out publicly and in precisely the same way as in all other cases, there being nothing to show that there was any irregularity whatever, and Travancore has as little right to say that it was done behind her back as any other Iruam who was in any way affected by the proceedings of the Iruam Commission.

3 and 4. The long possession, and the fact of the lands being for a considerable period entered in the Travancore accounts, are admitted but these facts do not prove sovereign possession and are compatible with the tenure of the land as an Iruam.

5. For what purpose the examination of the ground was made in 1849 cannot be ascertained from the record before me, nor can I ascertain that any

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use was subsequently made of the account then drawn up, so that it does not appear to have been an important or authentic survey and as compared with the accounts of 1802 & 1844, it is valueless.

6. This is too general a statement for me to give a specific reply. If it refers to the fact of the tenants having made use of Travancore law courts and institutions I have already replied to it.

7. Messrs Ward and Courner's Survey cannot be considered at all as evidence of Sovereignty. Whenever that Survey has been found unfavorable to the claims of contending parties that party to whom it was unfavorable invariably treated it as worthless.

8 and 9. The discrepancies in the Aghaut account of Fasli 1212, the Inam register and the adangal registers of Palavur village, do not in any way affect the probability of the Inam theory, though they certainly do render the accurate identification of the locality somewhat difficult. The accounts prove to my satisfaction that

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that there was an Inam grant to the Raja, of lands the area of which correspond to the area of the disputed tract and the locality of which is on that of the disputed tract.

The fact that Travancore denies the existence of any Inam, does not shake my belief in its existence. That portions of the disputed tract are included in those accounts which prove the existence of an Inam, is beyond all doubt and it is sufficiently clearly shewn by the British Arbitrator at paras 18, 19 and 20 of his award that the lands referred to in the oblique numbers mentioned in the Inam register, do form the Survey numbers 201348, 1499 and 1526.

10. The levy of road cess for a period of 14 years subsequent to a protest having been made against the imposition and a consequent assertion on the part of the British of the right to impose the cess, has a certain significance, as showing that 14 years prior to opening this dispute Travancore was unprepared or unwilling to assert a Sovereign right to the land and for 14 years permitted the British Government to hold un-  
questioned

[illegible]

  
 British Resident in  
 Travancore & Cochin.





CURRENT NO. 782

Resident's Office,

Trivandram, 14<sup>th</sup> June 1892.

From

J. C. Hannington Pagnie  
Resident in Travancore and Cochin,

To

The Honble J. F. Price  
Chief Secretary to Government,  
Fort St. George.

Sir,

With reference to Government Order Political R No 95 dated the 20<sup>th</sup> May 1892, I have the honor to forward a copy of my decision in the Palacour boundary dispute, the original of which is deposited in my office.

1. A copy of the decision has been forwarded to the Travancore Durbar for information.

one hundred and sixty 3. The enclosures forwarded by Government  
nine manuscripts -  
enclosures and fifty are herewith returned as specified in the margin  
Cadyan leaves retaining  
one number.

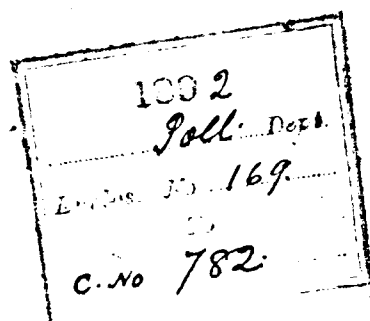
I have the honor to be

Sir

Your Most obedient Servant

Hannington Pagnie  
Resident

BW



1990

*Journal of Management Education* 30(6)

*Journal of Management Studies*, 19(1), 67-80.

*[The page contains several lines of extremely faint, illegible handwriting.]*

[illegible]

CURRENT NO. 782  
Revenue 1892. *Dept.*

Political Department.

From

The Resident in Travancore & Cochin.

To

The Chief Secretary to Government,  
Fort St. George.

Dated 14<sup>th</sup> June 1892

Received 18 ———

Gift No. 354 of 1892

Enclosures one hundred  
+ sixty nine miss enclosures  
+ 50 Cadjan leaves  
as one vol

CHIEF SECRETARY  
18 JUN 92

Recd 24 June.

Forwards copy of the Resident's  
decision in the Pallavur boundary  
dispute.

Endorsed

Q 95, Q 2015/92 Pull  
6.8 10/1/91 15

723 June 1892 No 114  
Transferred to the  
Revenue Dept. with  
reference to G.O. 11<sup>th</sup>  
May. 1892, No. 2356,  
Revenue.

Hedrickhies

Chief Secy

22/6

41/14

REVENUE DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read again G.O. No 2356/d/2352  
Read. C. No 5671 292

\* Print.

Order of 12<sup>th</sup> July 1892, No 710

Communicated to Mr.

Commissioners of Land Revenue

2. H.S. the Governor in

Council concurs with the opinion

expressed by the Board in the

opinion expressed by the Board,  
at paragraph 3 of its Proceedings

contained in the first of the papers  
read above, that in the event of

the Resident's award being in

favour of the British Govt, it would  
be advisable to bring the Inam

secure of the tract in dispute

to an end by payment to the

Travancore Durbar of reasonable

compensation. The Resident in

Travancore & Cochin will accordingly

to report in the Political Depart-  
ment to ascertain & report whether  
the Trancore <sup>or whether</sup> ~~is~~ <sup>will agree</sup> ~~is~~ <sup>will</sup>  
to give up its share rights in  
the tract in question, ~~as a result~~

G.O. 12<sup>th</sup> July 1892, 12710

Recd  
30th 3076  
2/10

To  
16th Comm<sup>rs</sup> of A.R.  
with the ~~sub~~  
5th Political Dept

60  
Dec-10-8

Draft. G.O.

Re Boundary Dispute between  
Linsently & Trancore

H.M. & Co. Hon. Sec. 43 8th Dec. 1892

To  
The Hon. Sec. Chief Secy  
for favours of counterinitials.

c 4/7  
2/11/7