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செப்பனிடுபவர் பெயர்
A. விலாச
செப்பனிடுவதற்காக எடுத்துக்
கொள்ளப்பட்ட நாள் - [illegible]
செப்பனிட்டு முடித்த நாள் - [illegible]
சாயர்க்குடி
முறையீப.எ.
கையொப்பம்
ஆராய்ந்தது உதவி
யாளர்
கையொப்பம்

Fort Saint George, Revenue Consultation of 24th November 1857.

No. 17. Read the following letter from Messrs. OAKES, AND Co.; to H. FORBES, Esq., Secretary to Government, Revenue Department, Fort St. George; dated Madras 10th November 1857.

SIR,

We beg to wait on the Right Honorable the Governor in Council with this, our appeal against a proceeding of the Collector of Sea Customs, which affects not merely our interests, as Members of a Mercantile Community, but our character also, from the manner in which that officer has thought fit to represent our conduct in the matter at issue between us.

On the 1st of *June* 1857, we cleared a consignment of hides received per "Antepodes" through the Custom House, we did this in the usual manner, by producing our Invoice £ 41-15-6 which we valued at Rupees 430, and it was passed accordingly.

In August 1857, we received another Invoice of hides per "Queen of the Wave" and on the 18th of the same month we applied for its clearance in the same manner presenting our Invoice £ 27-19-0 valued by us at Rupees 278, but the Collector refused to pass it as undervalued and proposed to take it on account of Government; we protested against the proceeding, and the correspondence that has ensued is submitted for the perusal and consideration of Government.

In September 1857, we received a third Invoice of hides per "Wellesley" and applied for its clearance submitting our Invoice in the usual course to facilitate matters, and as we could not clear our previous consignment and wanting our hides for retail orders, we then valued the Invoice of £ 28-15-0 at Rupees 351 and it was passed.

It is in respect of the second consignment we now have occasion to trouble Government: we must submit that when we applied to clear this consignment, we had the split hides of the first consignment on hand; the second consignment consisted of

		£.	s.	d.
6	Japanned splits at 30, ...	9	0	0
6	Enamelled hides at 51, ...	16	4	0
3	Dozen Chamois skins at 10, ...	1	10	0
	Case, ...	1	5	0

The two first articles are subject to *wholesale* market valuation, and we valued them by the Invoice, as is usually done, when there are no wholesales to determine; the Chamois are valued by the tariff according to which we entered our valuation.

The Collector assumed that the Japanned splits and enamelled hides were undervalued, and on that ground proposed to take the whole consignment on account of Government, inclusive of the Chamois skins, which being valued at the tariff, he had no right to do: the value of this latter article is small in itself, but the proceeding was not the less illegal as far as this part of the consignment was concerned.

When the Collector intimated his intention to us,* we declined to receive it as a fair proceeding; we informed him† that having referred to Section XXIII of Act VI of 1841, which he quoted in justification of his proceeding, we could find no plea for the seizure, and that it did not apply; firstly, because our part of the valuation taken together was a fair one, and that the Government by the tariff settled the value of the other part.

On this the Collector offered‡ to permit us to clear the Chamois skins, intimating that he proposed to purchase them merely to suit our convenience, it will be for the Government to consider what weight is to be attached to this assurance, when the Collector was satisfied that on detaining our goods he was really putting us to the greatest inconvenience.

As regards the leather, he said, it was not his intention to give them up. That Messrs. Bainbridge and Co. had a few days previous cleared enamelled hides at 40 per cent. above our value, and that we could not be ignorant of the fact. On this we§ declined to take the Chamois skins in part of the Invoice, and intimated that as Messrs. Bainbridge and Co. had paid 40 per cent. advance, we would do the same, and tendered the amount of duty: we must here bring to the notice of Government that we were not aware of Messrs. Bainbridge

* *See letter No.* 279, *August* 18.

† *Our letter* 21*st August.*

‡ *See letter No.* 283, 21*st August.*

§ *Our letter,* 24*th August.*

and Co.'s proceeding until after we had sent in our application to clear, this fact we learnt indeed at the Custom House, and the Collector's assumption is in this matter erroneous and false coloring; we would moreover add, that no wholesales of hides, had taken place to lead us to the knowledge of an advance in value, nor is a rate quoted in the Official Price Current of Madras. The Collector then takes advantage of our offer to pay duty on an advanced valuation and imputes wrong motives to it, he says "your present proposal to pass the leather at 40 per cent. premium is an admission on your part as to their value, which justifies my having purchased the skins on account of Government."

In our letter of the 28th of August, we demurred to this interpretation; we informed the Collector that we tendered the value merely on his information and to enable us to get our skins and execute our retail orders; that the advanced rate could not be realized as a "wholesale value," even if a purchaser could be found that our first valuation of a case containing perishable goods without inspection of the condition of the contents, was, considering all risks, still held to be the *fair market* value, and that unbiassed parties would agree with us.

We would submit for the information of Government, that the Collector did not decide on taking the hides, on their account, until, he had opened the case, and saw that the hides were in prime condition; had they been found damaged we do not suppose that he would have thought of taking them. The invoice value of the skins is £ 26-14; £ 1-5, is on account of the case, we valued them at Rupees 278-0-0, the duty on which is Rupees 13-4-5, the duty with an advance of 40 per cent. would be Rupees 18-0-7, shewing a difference of Rupees 4-12-2; or sum too insignificant to denote a desire to deprive the Government of its dues.

This is the state of our case; there is no wholesale market value for mixed hides, even for so small a consignment as ours, but sales have been effected for enamelled hides by the accidental circumstances of the mutinies in Upper Hindostan, the Commissariat are the purchasers, and the large requirements of the Government service have raised the demand, and the demand is only that of the Commissariat.

We must solicit His Lordship's attention to the circumstances mentioned in the Collector's explanation to the Board of Revenue, and pray to be protected against the imputations of that officer. Imputations which might seriously affect our character and prospects in life, and imputations utterly groundless, and which we respectfully and emphatically deny and defy proof.

The Collector's statement in para. 3 of having received more than *one* offer of 100 per cent. above the value of the goods, is such as we cannot admit, as the skins on retail do not realize that advance, and as somewhat corroborative the very Invoice of leather cleared by Messrs. Bainbridge and Co. could not be sold wholesale; moreover, the statement of the Collector himself renders this extreme offer highly improbable, for when making the most of the supposed undervaluation, he observes in para. 5 that "the undervaluation was palpable and was at the least 70 per cent.," now we believe there is no Madras dealer in skins, either so rich or so insane as to make a *bond fide* offer of 30 per cent. in excess of the large advance of 70 per cent. in the hope of getting a profit.

We would draw attention to the Collector's remarks, para. 3, page 1, and as he seems to have misunderstood our remarks, we would offer in further explanation that our meaning, if not clearly expressed was to the purport that, leather having advanced in England some 50 per cent. in 2 years, we had by being guided by our Invoices (in the absence of wholesales) as a valuation for duty; been actually paying duty on a higher wholesale value, than we had sold the same articles for retail, within the same period; and, as we thought proved to a truism, that the Government were benefited thereby in the course pursued by us, and the trade in general.

We must solicit His Lordship's attention to para. 4 in the Collector's explanation, and while objecting to what is called our line of arguments; will leave with full confidence to his consideration whether the fact of other merchants' leather, being passed at the same rate at which we applyed to pass ours; and ours being seized is not a just cause of complaint and appeal; we have acts of dishonesty imputed to us, for so doing.

We asked in our reference to the Board of Revenue, that "the Collector should be called upon for reports and rates of *all sides* of leather, cleared from the "Queen of the Wave" or other ship or ships about that time;" in order that they might attest the truth of our statements and see the variation of valuations: we deem it unfair that these were kept back, to the prejudice of an impartial and considerate judgment; for had the Board of Revenue this data before them, they would have at once seen whether, the assertions in para. 4 of receiving advantages of passing leather at what we knew to be below the market value on previous occasions, had any foundation; or whether the Collector, was justified in using the *term, of being detected;* and accusing us, of the successful carrying on of undervaluations.

The Collector in para. 5 says "the undervaluation was palpable, and was at the least 70 per cent;" and yet he allowed Messrs. Bainbridge and Co., to pass their leather at 40 per cent. advance, and subsequently a case of ours ex "Wellesley" at 28 per cent., and if the other *previous* valuations had been furnished, the Board of Revenue would have easily seen there was really no definite wholesale market value; and that ours bore a favorable comparison and was in fact no undervaluation; further, on this para. we have only to repeat that, when we applied to clear our case of leather with other goods, we were not aware of the rate Messrs. Bainbridge and Co. had applied to clear theirs.

In para. 7 of the Collector's statements, in quoting facts, he says, we failed to prove by argument the skins were not undervalued; all that passed between the Collector and Mr. Oakes is declared in the Memo. of the transaction, and we submit, that can scarcely be called either an argument or a fact; secondly, he says the firm laid the case before the Trade Association, and failed to obtain their support, in this latter the Collector has been misinformed, and it is not a fact: but, it is a fact that notwithstanding the indirect influence through the late Chairman, the Committee being personally acquainted with the whole of the facts, were unanimously of an opinion *it* was illegal on one part, and a most arbitrary proceeding on the other part of the Collector and unjust to us, and if there ever was a case that *required the guiding hand of Government*, this was one; that, our case to day, might be theirs tomorrow, and in the absence of wholesales to determine, might be subject to the same inconvenience: the Minutes of the Committee are a recorded proof of their opinion, and we may add will, if necessary, be willingly submitted for the perusal of his Lordship in Council, it is quite true we appealed to the Board of Revenue.

In para. 9, the Collector complains of delay of appeal and says truly the money was tendered on the day of seizure, the 18th August; and no appeal was made till the 18th September; he forgets to mention that *his* last letter to us confirming his decision was dated 28th August; he also forgets with reference to the delay complained of, to mention that *he received* our statements from the Board of Revenue on the 19th September, and his answer was only returned to them on the 13th October; the *fairness* of these statements, knowing as he does, we have at present only one resident partner, (with little time to draft appeals), we leave to the consideration of the Governor in Council.

We beg further to submit to his Lordship in Council, that the Collector, in his answer to our statement to the Board of Revenue, has not touched one principle of the appeal, and failed to shew in any way, that ours was an unfair wholesale valuation; the quoting of Messrs. Bainbridge and Co.'s consignment is not to the purpose; as that consignment could not be sold wholesale.

In conclusion, we respectfully solicit the Governor in Council, will give the matter his full consideration and believe our assurance, when we state we have no desire to be antagonistic to any authority, and it has pained us thus to write of a servant of the State; that we look to him to be freed from the imputations cast upon us without foundation by the Collector; whom we know is personally inimical to us, and has imported private feeling into this matter, as his statements will shew at a glance, the reason why, he is so; we cannot say, we know of no act of ours, that should deprive us of the ownership of our property, or degrade us by having it seized; and all we ask is, that we may be allowed the citizen privilege of clearing our skins as others have done; if not, at our first valuation, then at the valuation of 40 per cent., and that his Lordship in Council will please to sanction it.

From W. E. UNDERWOOD, Esq., Collector of Sea Customs; to Messrs. OAKES AND Co.; dated Madras, 18th August 1857, No. 279.

GENTLEMEN,

I have the honor to inform you that I have taken on behalf of Government the case of leather imported per "Queen of the Wave" from London, under Section XXIII. Act VI. of 1844 at the value entered in your application to pass the goods. I beg to tender to you Rupees 264-1-7, being the amount at which the leather was valued, less the duty chargeable at 5 per cent.

From Messrs. OAKES AND Co.; to the Collector of Sea Customs; dated Madras, 21st August 1857.

SIR,

We beg in answer to your letter dated 18th Instant and a tender of money on account of Government for a case of leather imported by us Ex "Queen of the Wave," to state, that we decline receiving the amount tendered.

On reference to the Section pointed out as a plea for the seizure of the above property on account of Government, we beg to say in our opinion it does not apply; firstly, because our part of the valuation taken *together* is a fair one; and secondly, the Government by the Tariff settles the value of the other part.

We therefore beg you will order the delivery of the above case of leather, and we herewith tender you Rupees 13-14-5 the value of the duty as shewn by the amount tendered to us.

From W. E. UNDERWOOD, Esq., Collector of Sea Customs; to Messrs. OAKES AND Co., Madras; dated 21st August 1857, No. 283.

GENTLEMEN,

In reply to your letter dated 21st Instant, I beg to inform you that you may clear the Chamois skins, on the payment of the regulated duty, I proposed to purchase them merely to suit your convenience.

It is not my intention to give up the leather, and your assertion that you have given a fair value will be tested by its sale. Messrs. Bainbridge and Co. a few days since cleared enamelled Hides, at a value 40 per cent. above that given by you, and you cannot yourselves, I apprehend be ignorant of the fact that your declaration of value is below the market value, I regret you should have placed me in the position of being obliged to refuse your request consequent upon the data upon which it is based being such as I cannot accept.

From Messrs. OAKES AND Co.; to W. E. UNDERWOOD, Esq., Collector of Sea Customs; dated Madras, 24th August 1857.

DEAR SIR,

In reply to your letter dated 21st Instant, No. 283, regarding a case of leather Ex "Queen of the Wave," we beg to say that we do not wish to receive it in part.

As it appears by your letter that duty has been paid within a few days at a value of 40 per cent. above ours, we herewith make an application to clear at the same ratio, and will feel highly obliged by your passing it, having some retail orders to execute.

From W. E. UNDERWOOD, Esq., Collector of Sea Customs; to Messrs. OAKES and Co.; dated Madras 25th August 1857, No. 287.

GENTLEMEN,

1. I beg to acknowledge the receipt of your letter dated the 24th Instant.

2. In my letter of the 21st Instant I informed you I would purchase the whole consignment of leather on the part of Government, purchasing the Chamois skins, as you observed they were merely used for packing, and in this I desired to consult your convenience.

3. As you demurred to this procedure, I informed you of my reasons for taking the Chamois skins and informed you that they were at your disposal. In the letter under reply you decline to pass them. In reply to the last para., I regret to inform you I cannot comply with your request; I cannot but bring under your observations that your present proposal to pass the leather at 40 per cent. premium is an admission on your part as to their value, which justifies my having purchased the skins on account of Government.

From Messrs. OAKES, and Co.; to W. E. UNDERWOOD, Esq., Collector of Sea Customs; dated Madras 28th August 1857.

DEAR SIR,

We beg to acknowledge your letter No. 287 dated 25th Instant. In answer, and referring to para. 2, we have to state, the plea based on the after thought of taking the Chamois skins to

oblige us is not tenable, see your letter 18th August, since which we have not seen you, and the whole circumstances prove to the contrary of any wish to consult our convenience, we decidedly demur to the inference in para. 3 or an admission on our part that the wholesale market value of leather is at 40 per cent. premium on Invoice, or that you were justified in taking our case for Government; your letter of the 21st having stated you had passed an Invoice at 40 per cent. advance, we therefore tendered the same value on purpose to get our skins, to execute retail order as referred to and to be done with this inconvenient and unpleasant matter and correspondence; we are still of opinion the Invoice of leather passed at 40 per cent. will not realize that amount wholesale even if a wholesale purchaser is found, and that our first valuation of a case containing perishable goods without inspecting the state in which the Japanned and Enamelled skins were at the time we made our first application was fair, and we think the opinion of any unprejudiced or uninterested importer would be the same.

We first applied to clear the case of leather Ex "Queen of the Wave" at what we considered with the two kinds of skins as fair wholesale market value, taking the risk of their being found damaged on inspection, that was demurred to; we secondly applied for them at a rate named by you as having passed others; this was refused. We beg again for the third time to apply at the same rate at which others were passed, and as we cannot bring ourselves to think that you have any other object; but, the collection of full revenue, we shall feel obliged by your passing the same.

From W. E. UNDERWOOD, Esq., Collector of Sea Customs; to Messrs. OAKES and Co.; dated Madras 29th August 1857, No. 297.

GENTLEMEN,

I beg to acknowledge the receipt of your letter dated 28th Instant, and to inform you I adhere to the decision I communicated to you, viz. to purchase the skins on account of Government.

From W. E. UNDERWOOD, Esq., Collector of Sea Customs; to J. D. SIM, Esq., Acting Secretary to the Board of Revenue; dated 13th October 1857, No. 427.

SIR,

I have the honor to state that in conformity with instructions received from you I withdrew Messrs. Oakes and Co.'s goods from the sale and have retained them pending instructions.

2. Messrs. Oakes and Co. observe in their Memo. of the transaction that "taking into "consideration the two kinds of skins they were valued at a fair wholesale market rate, and that "he did not believe a wholesale purchaser could be found in the market for the case entire."

In Memo. No. 1 page 3.

"The increased value in England * * * is the natural cause of increased value here * * * * * "leather has advanced 50 per cent. within the two years." * * *

3. If I understand the argument correctly of Messrs. Oakes and Co., leather would rise in value in *this market* in proportion as the increase of price took place in England. Yet they say in offering leather at the English cost they were giving a fair market value, while in page 3 they observe, "the consequence of taking an Invoice as a guide is we have been offering to pay duty on a *greater value* than we have within the same time sold the same kind of goods on retail;" while in the letter dated 24th August last, the firm offers to pay an advance of 40 per cent. and on the day the goods were taken the Collector received more than one offer to take the whole at 100 per cent. advance.

4. As a justification, attention is drawn to leather having previously passed at the same rates as those entered by Messrs. Oakes and Co. in their application dated 18th August 1857, and the line of argument is, that the Collector did not enforce the law at an earlier period and put a stop to the undervaluation, consequently he was to permit Messrs. Oakes and Co. when the undervaluation they had been successfully carrying on was brought to his notice, to continue the practice so that a merchant successfully getting his goods through from time to time at a rate by which he knows he pays less duty than he is bound to do in honesty is by that very circumstance to plead immunity, and bar the Collector from putting a stop to like proceedings when the fact is detected. Messrs. Oakes and Co. have had the advantage of passing leather

below what they knew to be the market value on previous occasions, and in this instance the Collector has discovered it, purchased the leather for Government and taught the parties that, nothing is gained in the end, however successfully from time to time parties may elude the vigilance of the Appraiser's Department, sooner or later they suffer and lose more than they had gained.

5. The undervaluation was palpable and was at the least 70 per cent. The offer to give 40 per cent. advance, and Messrs. Oakes and Co. subsequently clearing leather Ex "Wellesley" at 28 per cent. over the Invoice is substantive evidence of undervalue, and if the Department is to blame, it is for not having taken the course earlier, not that it did so at that period when the value of leather in this market was brought to notice by Messrs. Bainbridge and Co. passing enamelled leather at 40 per cent. above the Invoice. Messrs. Oakes and Co. should have adopted the same course.

6. Section XXIII. Act. VI. of 1844 gives the power to the Collector to take goods undervalued and authorizes him to take part, or the whole of a case. The goods were grossly undervalued, and the Collector acted under the Law, and the Government have in the annexed Extract from the Minutes* Consultation clearly defined the intent and meaning of the section in words as follows:

* *Dated 12th June 1857, No. 558.*

"After giving the full and impartial consideration to the arguments and explanations submitted in the matter of the consignment of stick lac taken on account of Government under Section XXIII. Act. VI. of 1844, the Right Honorable the Governor in Council regrets that he finds himself constrained by a sense of what is just to the State as well as of the support which should be afforded to the Collector of Sea Customs in the discharge of a very invidious duty to decline compliance with Messrs. Arbuthnut and Co.'s application, and to direct that the provisions of the Act be carried into effect."

7. It appears to me if there ever was a case in which the act of the Collector was justifiable this is one, and the following facts may suffice to prove it. Messrs. Oakes &. Co. not only fail by argument to prove to the Collector the goods are not undervalued, but in fact admitted it in offering an advance. Secondly, the firm of Messrs. Oakes &. Co. laid the case before the Trade Association with a view to obtain their support to their complaint and failed, and as a last resource, seek redress at the hands of the Board of Revenue as aggrieved by the acts of this Department.

8. I would respectfully solicit that some definite rule be laid down regarding appeals. In this case there cannot be a shadow of a doubt the goods were undervalued, yet the Collector's hands are tied, and he cannot sell the goods because the party whose goods are taken may appeal. Thus they may be retained for an indefinite period, spoilt or eaten by rats and then when sold sell for less than the purchase money. The Collector by Section XXIII. Act VI. of 1844 is bound to pay for goods within fifteen days, and I respectfully submit that the party who considers himself aggrieved should be compelled within a given time to transmit it through the Collector of Sea Customs. The rule to be notified to the party in writing at the time the Collector informs him he will take the goods.

9. In this instance, the goods were taken and the money tendered to Messrs. Oakes and Co. on the 18th August last, and on the 18th September 1857, or 30 days after, the appeal is laid before the Board of Revenue, the Collector restrained from selling and the goods lying at his risk both as regards damage and fall of market. The Collector is thus manifestly placed at a disadvantage, and it is but natural that he should solicit that he should be protected in the execution of his duty, and permitted to sell goods within a reasonable period.

10. Messrs. Oakes and Co.'s letter with enclosures are herewith returned.

(True Copy.)

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

No. 18. ORDER THEREON, No. 1184; dated 19th November 1857.

Ordered to be referred to the Board of Revenue for early report.

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

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Certified to be a true Extract

from the Minutes of the Meeting

held on the 13th October 1857.

Edward Lee

Secretary to the Council of the Royal

College of Physicians

[True Copy]

Acting Secretary

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4 Dec Letter N° 274. 3 Augt 183

6 Dec Letter 24 August

4 Dec Letter N° 283 24 August.

Rec 24 Dec

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Ordered to be
laid before the House of Commons
by command of
His Majesty

1814