(1) Number of pages 4

(2) Date of repair 26.6.86

(3) Initials of the Referencer Lavs

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No. / B.P. No:	779	Press. / Mis.
Dated	27-2-1879	197—.

Not to be folded or roughly handled

Archives I—10,006—19-4-79.

MJ
26/6/86

GOVERNMENT [illegible] MADRAS.

JUDICIAL D[illegible]ARTMENT.

11th February [illegible], No. 278.

Public Va[illegible]ions.

Read the following paper :—

No. 67. *From A. MACKENZIE, Esq., C[illegible]rman of the Chamber of Commerce, to the Acting Chief Secretary to Governme[illegible] dated Madras, 21st October* 1878.

The Chamber have had under their con[illegible]eration the Proceedings of Government, Judicial Department, dated 19th August [illegible]t, No. 1667, on the subject of legal mercantile holidays.

2. In paragraph 6 of the Order of G[illegible]ernment the Chamber note that "His Grace the Governor in Council is of opini[illegible]that before any further action is taken, actual, not supposed, cases of hardship sho[illegible]be stated in order that it may be seen whether the grievance suggested is a real a[illegible]substantial one that cannot be remedied without legislation, or that may be remov[illegible]y legislation without prejudice to other parties."

3. "Dispute," "inconvenience," or [illegible]annoyance," would better express the more usual consequences of the present unc[illegible]inty than "hardship," but the Chamber can mention two cases of actual hardshi[illegible]or loss which have occurred during the present year.

4. In December last the Steamer *Tun[illegible]* was chartered at Bombay for England and completed loading by the 15th January; the Captain claimed demurrage for several days during the "Christmas holidays" on which no work had been done. The charterers refused to admit the claim, pleading that holidays were not working days—and he then refused to sign the Bills of Lading except under protest, with the intention of claiming his demurrage before giving up the goods at port of delivery. The charterers refused to allow him to put any remarks on their Bills of Lading, and claimed a clean receipt for their goods. The Captain then refused to sign any Bills of Lading, and left the office on his way to the ship, first taking up all the Mate's receipts for goods shipped. The charterers immediately gave him into custody on a charge of theft of the said receipts; his departure [illegible]m the port was delayed for a couple of days in consequence, though previously th[illegible]ip had steam up and was ready for sea. When the case came up for final disposal [illegible]ore the Magistrate, it was dismissed on the ground that the Captain's conduct was [illegible]ndiscreet, but nothing worse," and that there was "no evidence of criminal intention" to support a charge of theft. The Captain went to sea without signing Bills of Lading; how the matter was ultimately settled the Chamber has not learned, but no doubt by payment of the demurrage claimed in England before delivery of the goods.

5. The Barque *Elliott*, Captain W. A. Mackay, was loading at Cochin for London last December and January. By her Charter Party forty weather working days were to be allowed the charterers for loading, &c.

6. Before the Christmas holidays, notice was circulated by the Superintendent of Sea Customs at Cochin that the Custom House would be closed for the Christmas holidays from 22nd December to Wednesday 2nd January, both days inclusive, but that emergent business could be transacted on payment of extra fees.

7. On receipt of this notice Captain Mackay sent notice to charterers' agents that he claimed continuance of loading on all the days named by the Superintendent of Sea Customs, except the usual holidays of Christmas day and New Year's day, but rather than cause dispute he would himself pay the extra custom fees.

8. The charterers' agents replied t the term "weather working days" excluded all legal holidays, and that the days san ned by Government for closing the Custom House and Master Attendant's Office Christmas vacation *were legal holidays*, and therefore could not count. The case wa eferred to this Chamber for arbitration, and was decided by a majority in favor of th charterers.

9. The above cases are fairly illus tive of the many disputes that arise through the absence of any statutory arrangeme or observance of certain days of the year as legal holidays, or days of privilege fro e usual obligations of business. In other branches of mercantile work, besides t connected with ships, inconvenience and annoyance is caused for want of a fixed tem having the force of law. Were certain days of the year named as legal holida all doubt would be avoided, and those who chose to keep holiday on any other day would do so at their own risk. At present, in the absence of any distinct law, eve little community becomes a law to itself in these matters—a state of things whic "outsiders" sometimes find inconvenient, not only in loss of time, but in loss of m cy.

No. 68. ORDER THEREON, h February 1879, No. 278.

Having given the circumstances set th in the foregoing letter full consideration, His Grace the Governor in Council is n prepared to move in the direction suggested by the Chamber of Commerce. The two ases adduced are only instances of dispute of a most ordinary kind. In the Bombay c e the charterers made their agreement with full knowledge of the season of the year; d the probability is that the days on which demurrage was claimed were ordinary wo ing days, for the case is not fully and clearly stated. Moreover, it is purely a Bomba ase. The Cochin case is an instance where the charterers did not wish to work, a therefore would not accept the fair offer of the Ship Master to himself pay the extra es; and the question raised was the correct meaning of a loosely worded phrase in th ir own agreement.

2. This Government do not feel called upon to move in the Bombay case; and they do not consider that the Cochin case furnishes any foundation for an alteration of the law, or for any special legislation on the question of mercantile holidays.

3. Copy of the foregoing letter of the Chamber of Commerce will be furnished to the Collector of Malabar, and he will be requested to report on what authority extra fees were charged at the Cochin Custom House for doing regular work during the holidays other than Christmas day or New Year's day.

(True Extract.)

Acting Chief Secretary.

To the Chamber of Commerce, Madras.
" Government Solicitor.
" Collector of Malabar.
" Revenue Department.

Exd. T. O'Connor.

Mis
Revl. Depart
Govt. of Fort St. George.
No. 1633
JUDICIAL.

To
The Chamber of Commerce,
Madras.
[illegible] &c. &c.

Dated [illegible] 1879
Inst. 21.
Recd. " – 212 Incl.

G.O. 114 February 1879 No. 228

FEBRUARY.
Nos. 67-68.

Public Holidays.—The necessity for any special legislation on the question of mercantile holidays, not considered established; and copy of the letter of the Chamber of Commerce, communicated to the Collector of Malabar for report, on what authority extra fees were charged at the Cochin Custom House for doing regular work during the holidays other than Christmas and New Year's day.

Mis. G.O. 27 Feby/79 No. 779

With an order.

No. 779
Communicated to the Board
Cir. Revl. [illegible]
Recd. 28/2/79
27 Feb/79
[illegible]
Board of Revenue 28/2/79

779