

- (1) பக்கங்களின் எண்ணிக்கை 32.
 (2) புதுக்கித் திருப்பிய நாள் 24.9.90.
 (3) ஆதாரங்குறிப்பவர் சுருக்கொப்பம் 16/9

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

Marine துறை

அரசாணை எண். மு. கோப்புத் தாள் எண்.	<u>46</u>	அச்சகம் பலவகை
நாள் :	<u>30.1.1893</u>	<u>198</u>

மடிக்கவோ ஸ்டம்படி கையாளவோ கூடாது

297

13.5 21/54

Marine

(1893

Department

G.O., No 46

(46)

DATED 30 1/93

15 page

[Despatch. Extract.]

Marine Posters. The rising Port officers
in modification of para 1 of G.O. 12 March
1890 & 96 to note extent - only when
there is notary public at the port
and allowing a sum of Rs 5 to be
charged on each case

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	196	mar	12				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	371	mar	23-4				

Recd. again the 1st paper
 G.O. 12-3-90. No 96. Madras
 No. 474 9
 357/1

PRESIDENCY PORT OFFICE,
 Madras 17 October 1892.

Noting of Protest From

THE PRESIDENCY PORT OFFICER,
 MADRAS,

To

THE CHIEF SECRETARY TO GOVERNMENT,
 MARINE DEPARTMENT,
 FORT ST. GEORGE.

Sir,

Referring to para 1 of G.O. No 96,
 Marine, dated 12th March 1890, I have
 the honor to forward herewith a letter
 in original from Messrs Hall Wilson
 & Co Lloyd's Agents at Cocanada, dated
 11th October 1892, for perusal of Govern-
 -ment and for such orders as they
 may deem necessary.

I have the honor to be
 Sir

Your obedient servant,

L. P. Theet
 Commander R. I. M.
 Presidency Port Officer.

1253

CURRENT No. 963

Marine (1892) DEPARTMENT.

From

THE PRESIDENCY PORT OFFICER,
Madras,

To

THE CHIEF SECY. TO GOVERNMENT,
MARINE DEPARTMENT,
Port St. George.

Dated 17- } October - 1892.
Received 20 }
Encls. 1

No.

Subject.

Submitting for orders a
letter from Messrs Hall
Wilson & Co of Cocanada
requesting to empower the
Port Officer at Cocanada
to grant "Noting of Protest"
Certificate.

12/3/90 No 96 Marine

Ref. of 5 November 1892, No. 1722

Messrs Hall Wilson & Co
write "The Master of the
Deepdale is barred by
limitation from noting
protest." The P. P. O. is
requested to furnish a
copy of the rules on the
subject of ^{marine} protests.

J.B.

11/1.

S
4 Mr.

Presidency Port Officer

From

Ernest Barclay

Government Solicitor

Madras

To

The Presidency Port Officer

Madras

Sir

1. I beg to acknowledge receipt of your letter of the 11th
instant No 474 M with its enclosures, which I return herewith

2. The practice as regards ships' protests is laid down in a
book called "Brookes Notary" On the arrival of a vessel at her port
of destination it is the custom for the master to cause an entry or
note of a protest to be made, which is signed by him at the office of
a notary. It should contain some particulars of the voyage such as the
name of the vessel & that of the master, the port from whence she
came, the time of her departure, the nature of her cargo & the date
of her arrival. This ceremony is called noting a protest or entering a
note of protest, & masters of vessels consider that, by usage, it may
be regularly done at any time within 48 hours after arrival, it is
however much more frequently done on the day of arrival or on the
next day. The same ceremony is also usually performed by a master of
a vessel after any extraordinary accident or injury. If there should
not happen to be a notary practising at any port into which the vessel
may have put it is customary for the master of a British ship to note
the protest before some person holding a public situation or office

64/11/1
connected in some degree with the British Government, such as a magistrate, collector or controller of Customs &c &c, & I see no reason therefore why a Protest should not, in places where there is no notary, be noted before a Port Officer.

3. There is, of course, no such thing as the Master of a ship being barred by limitation from noting his protest. As already mentioned it is usually done on the day of the ship's arrival or on the next day; but, of course, the longer the noting is put off, the less value it is, as it is supposed to be a record, practically contemporaneous with the arrival of the vessel; or, in case of accident or injury, as soon as possible after that accident or injury has happened, as it can be recorded. In the case of the "Deepdale" I think the Port Officer of Onanada was mistaken in supposing that he had not the power to take a note of protest for, as an Officer connected with the British Government, he required no special authority to do the act & had he done so, the master of the "Deepdale" could, at any reasonable time afterwards, have extended his protest as regards the shipping of the Cargo.

4. The object of a protest, & the note & entry of protest is only a preliminary step to the extended protest should such be found necessary, is for use in matters connected with the adjustment of losses in marine insurance & in the calculation of averages, & a protest, though it cannot be used in our Courts as evidence for the master or his owners, may be evidence against him & them & credit is often given to their contents by merchants, & I believe almost invariably by under writers, when free from all circumstances of suspicion.

5. I think that where a note of protest is made by any Officer of Government the note should state that there is no notary at the place where the note is made.

I have the honor to be

Sir

Your obedient servant

Amos Barclay

Government Solicitor

Heading.

Notes of protests

No. *474 G*
423

PRESIDENCY PORT OFFICE,
Madras, *22nd November 1892*

From

THE PRESIDENCY PORT OFFICER,
MADRAS,

To

THE CHIEF SECRETARY TO GOVERNMENT,
MARINE DEPARTMENT,
FORT ST. GEORGE.

SIR,

With respect to Marine Department
Reference No. 1722 on Current No. 963, dated
5th November 1892, I have the honor to
acquaint you, for the information of
the Government, that not being in
possession of any rules on the subject
of Marine protests, I applied to the
Government Solicitor for such
information on the subject as he could
afford, and beg to forward herewith
his letter in original for perusal.

to be returned.

2. The difficulty complained of by
Messrs. Hall, Wilson & Co. might have
been avoided had the Port Officer,
Cocanada, been a Justice of the Peace,
and I submit that each Port Officer
should

1892

Mar. 20

25

1893

104
Should now be made a Justice of
the Peace.

I have the honor to be,
Sir,
Your obedient servant,

Hatfield
Commander R. I. M.
Presidency Port Officer

7

Marine (1892) DEPARTMENT.

From

THE PRESIDENCY PORT OFFICER,

Madras,

To

THE CHIEF SECY. TO GOVERNMENT,

MARINE DEPARTMENT,

Fort St. George.

No. 474 G.
423 G.

Dated 22nd November 1892

Received

23 NOV 92

No.

Subject.

Forwarding letter from the Govt. Solicitor on the subject of "Noting of protests" and suggesting that each Port Officer should now be made a Justice of the Peace.

Mar 962, 12-3-90 mis 68
H. M. 25 Dec 1892 1215
Read 1073 - (as altered)
Ref. C/P 3/12 Hel 26

It does not appear from the Govt. Solicitor's letter that it is necessary for a Port Officer to be a Justice of the Peace for the purpose of noting a protest, but there is apparently objection to a Port Officer being so. If there is no legal objection to Port Officers noting protests the Govt. has no objection to their doing so. The Advocate General will be requested to record an opinion on the point.

J. D. B.
24/11

28th

To The Govt. Solicitor
C/P 3/12

C. 28/11
R. 3/12

In the matter of Reference Department.

on N^o 1073 of 1892 Marine

Union

1. I think the opinion expressed by the Government to the 19th ulto to Madras, is correct.
2. In my opinion there is no legal objection to the Port Officer noting the protests of Masters as there are no Notaries Public in the place where the protests are made.

Madras
10 Dec 1892

Sig^d J. H. Spring Brau
Advocate General

Copy 1

sent Barclay
sent Solicitor

ready by
PREPARED
Jan 1892/ Department

via
Ernest Barclay
Government Solicitor
Madras

To
The Chief Secretary
To Government
Madras

No 547

Dated 12th December 1892
Recd 15th



Forwarded with reference
to the Order of Government
dated 5th December 1892.
No 1915, Marine Department

Ernest Barclay

Government Solicitor

10. 23 3 7 8 9
Madras 16th January 1893.



From,
Ernest Barclay,
Government Solicitor,
Madras.

To,
The Chief Secretary to Government,
Madras.

Sir,

1. I beg to acknowledge receipt of your Memorandum dated 23rd ultimo No. 2061 Marine Department.
2. A ship's extended protest generally consists of two parts, the first a statement or declaration of the facts and circumstances of the voyage and of the storms or bad weather which the vessel may have encountered or any accidents which may have occurred during the course of the voyage, and the other part in which the appearers, i.e. the persons appearing before the notary and making the declaration, and also the notary protest against the accidents or damage occasioned to the vessel or her cargo, and the protest was formerly commonly made on oath by the appearers, but since the passing of 5 and 6 Will. 4. c. 62 it is usual to subjoin to the statement the form of declaration given in the Schedule to that Act except in cases where the vessel or her cargo has been incurred or is anticipated to have occurred, an extended protest is not necessary, and the object of the instrument is to satisfy owners of the vessel and the underwriters as to the damage to ship or cargo.

both, and the narrative of facts set out in the protest
general and principally derived from the ship's log book,
appearers consist of the Master and others of the crew, s
-ly a mate and the carpenter or, in cases of steam vessel
Chief Engineer, according to what may have happened.

3. There is no precise form adopted for an extended protest
and, legally I see no objection to a Port Officer extending
protest if he knows how to do so, but it requires some care
knowledge and as it is material to have the protest ext
-ed before the same note or other official in whose offic
was noted, it would, if the voyage were entirely ended a
the port at which the vessel has arrived and at which the pr
-test is noted, be advised for the Master to take a certificate
copy of the note of protest and have it extended at the end -
his voyage or at the first place where there
a Notary Public.

I have the honor to be

Sir,

Your Obedient Servant,

Augustus B. Bailey
Government Solicitor.

Current No. 49

Marine DEPARTMENT.

From the Port Solicitor

No. 23

Dated 16th

Received 17th

Enclosures

SUBJECT.

Re: the extended protest of
a ship:— giving his opinion.

Submitted with refce
to the Huis query on
the draft order. It wd:
be safer to restrict P.O.s
powers to "noting" pro-
tests.

gdb

19/1.
The Govt Minister says that there
is no possible fear for an action
not protest and that it is
further case and knowledge.
It would be well to refer to the
Huis then from 2 Port Officer
to the acting 1 protest which
is nearly to be in
cutting out the protest
was only made by the party
entering the protest.

Ch
19/Jan.

I think they may be allowed to note
both as there is no legal objection. They
don't demand of the protest I suppose
if it is defective it is the affair of
the appearance. The business of the P.O.
is merely to attest what is put before
him.

Wes
22/Jan

C.20/1
R.23/1

- (a) Print and give good abstract of
the enclosure.
- (b) Print, with enclosure.
- (c) Print.
- (d) Quote "opinion" not to be printed.
- (e) Print. Show proof.

*printed in G.O. d. 17.5.90, No. 192.

What is meant by extending a protest
if a P.O. may note one but may
be not extend one?

Wes
(vide C.49)

Five Rupees is enough.

Wes

It is said: that some fee shd:
be charged. The duty is extra official
to Mariners shd: pay for the
convenience. They wd: have to
pay a Notary more. The statement
G.O. 1906 shows that when P.O.s find
themselves as it varied between
5 & 15.30.

The Presy Port Officer
with 19/Jan

Marine Dept.

Read again: 19

Para: 1 of G.O. d. 12.3.90, No. 9

Read also:

G. 963; G. 1073; Ref: 1915;
and C. 1126. 2 C. 49.

Order. 30 Jan 93 K-46

In the circumstances
now represented, and in
modification of para: 1 of
G.O. d. 12.3.90, No. 96, the
Governor in Council
authorises Port Officers
to "note" ^{and "extend"} marine protests,
but they cannot be per-
mitted to "extend" them.

2. The authority given
in para: 1 may be exercised
only when there is no
Notary Public at the port,
and that fact should
variably be set out in
the Port Officers' note.

3. A fee of Rs (5) five
for noting and extending a protest
will be charged in each
case, of which the Port
officer will receive one
half in the usual way.

gdb

Wes
22/Jan

Marine Protest is
a declaration made by
the Master of a vessel before
a Notary, Consul, or other
authorised officer, upon
his arrival in port after a
disaster, stating the
particulars of it, showing
that any damage or loss
sustained was not owing
to the fault of the vessel, her
owner or crew, but to the
perils of the sea for which
insurance he has protested
against them.

50 (11) 82
all in 35. B. 8/12
50 copies 1/2

30TH JANUARY 1893, No. 46, MARINE.

GOVERNMENT OF MADRAS.
MARINE DEPARTMENT.

READ—again the following paper:—

G.O., dated 12th March 1890, No. 96, Marine.

Para. 1. It appears from the foregoing letter that certain Port officers have from time to time received fees for noting and extending protests—notarial acts which they had no authority to perform. Their proceedings in this respect have been most irregular and must be stopped at once. The Presidency Port Officer will inform all Port officers that they must refuse to note or extend protests.

* * *

READ—also the following papers:—

From H. A. STREET, Esq., Commander, R.I.M., Presidency Port Officer, to the Chief Secretary to Government, dated Madras, 17th October 1892, No. 474—357-G.

Referring to paragraph 1 of G.O., No. 96, Marine, dated 12th March 1890, I have the honour to forward herewith a letter from Messrs. Hall, Wilson & Co., Lloyd's Agents at Cocanada, dated 11th October 1892, for perusal of Government and for such orders as they may deem necessary.

ENCLOSURE.

From Messrs. HALL, WILSON & Co., Lloyd's Agents, to the Presidency Port Officer, dated Cocanada, 11th October 1892.

ABSTRACT.—Reporting that the S.S. *Deepdale* having encountered rough weather, a portion of her cargo got adrift and was damaged; that on arrival afterwards at Cocanada the Captain wanted to note a protest, but was unable to do so because the Port Officer was not empowered to accept it, and the Collector was absent from the district and there was no other officer competent to act, and that the result was that, through no fault of his, the Captain and the owners of the ship were placed in the false position of failure to note protest and are now barred from doing so by limitation; and requesting that this serious inconvenience to the shipping may be brought to the early notice of Government with a recommendation that the local Port officer be formally empowered to act, especially as he is the official to whom Masters of ships naturally look in cases of the kind.

From H. A. STREET, Esq., Commander, R.I.M., Presidency Port Officer, to the Chief Secretary to Government, dated Madras, 22nd November 1892, No. 474—423-G.

With respect to Marine Department reference, No. 1722, on current No. 963, dated 5th November 1892, I have the honour to acquaint you, for the information of the Government, that, not being in possession of any rules on the subject of marine protests, I applied to the Government Solicitor for such information on the subject as he could afford, and beg to forward herewith his letter in original for perusal.

2. The difficulty complained of by Messrs. Hall, Wilson & Co. might have been avoided had the Port officer, Cocanada, been a Justice of the Peace, and I submit that each Port officer should now be made a Justice of the Peace.

ENCLOSURE.

From E. BARCLAY, Esq., Government Solicitor, Madras, to the Presidency Port Officer, dated Madras, 19th November 1892, No. 517.

I beg to acknowledge receipt of your letter of the 11th instant, No. 474-1483 M., with its enclosures, which I return herewith.

2. The practice as regards ships' protests is laid down in a book called "Brooke's Notary." On the arrival of a vessel at her port of destination it is the custom for the Master to cause an entry or note of a protest to be made, which is signed by him at the office of a notary. It should contain some particulars of the voyage, such as the name of the vessel and that of the Master, the port from whence she came, the time of her arrival. This ceremony is called noting of vessels consider that, by usage, it may be done at any time within 48 hours after arrival; it is, however, much more frequent same ceremony is also usually performed by or injury. If there should not happen to a vessel may have put, it is customary for the some person holding a public situation of Government, such as a Magistrate, Collector, therefore, why a protest should not, in place of an officer.

3. There is, of course, no such thing as noting a protest. As already mentioned the next day; but, of course, the longer it is to be a record practically containing injury, as soon as possible after that accident the case of the *Deepdale* I think the Port Officer had not the power to take a note of protest, he required no special authority *Deepdale* could, at any reasonable time shifting of the cargo.

4. The object of a protest—and the note and entry of protest is only a preliminary step to the extended protest should such be found necessary—is for use in matters connected with the adjustment of losses in marine insurance and in the calculation of averages, and a protest, though it cannot be used in our Courts as evidence for the Master or his owners, may be evidence against him and them, and credit is often given to their contents by merchants, and I believe almost invariably by underwriters, when free from all circumstances of suspicion.

5. I think that where a note of protest is made by any officer of Government, the note should state that there is no notary at the place where the note is made.

Reference No. 1915.

It does not appear from the Government Solicitor's letter that it is necessary for a Port officer to be a Justice of the Peace for the purpose of noting a protest, but there is apparently objection to a protest being extended by a Port officer. If there is no legal objection to Port officers noting protests, the Government has no objection to their doing so. The Advocate-General will be requested to record an opinion on the point.

5th December 1892.

To the Government Solicitor.

From the Government Solicitor, Madras, dated 12th December 1892, No. 54.

Abstract. Subj. the objection of the Adv. Genl. called for above.

From E. BARCLAY, Esq., Government Solicitor, Madras, to the Chief Secretary to Government, dated Madras, 16th January 1893, No. 23.

I beg to acknowledge receipt of your memorandum, dated 23rd ultimo, No. 2061, Marine Department.

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

2. A ship's extended protest generally consists of two parts—the first a statement or declaration of the facts and circumstances of the voyage and of the storms or bad weather which the vessel may have encountered or any accidents which may have occurred during the course of the voyage, and the other part in which the appearers, i.e., the persons appearing before the notary and making the declaration, and also the notary protest against the accidents or causes of injury and against all loss or damage occasioned thereby. The protest was formerly commonly made on oath by the appearers before the notary, but since the passing of 5 and 6 Will. IV, c. 62, it is usual to subjoin to the statement the form of declaration given in the schedule to that Act. Except in cases where damage to the vessel or her cargo has been incurred or is anticipated to have occurred, an extended protest is not necessary. The object of the instrument is to satisfy owners of the cargo, the owners of the vessel and the underwriters as to the cause of the damage to ship or cargo or both, and the narrative of facts set out in the protest is in general and principally derived from the ship's log book, and the appearers consist of the Master and others of the crew, generally a mate and the carpenter, or, in cases of steam vessels, the Chief Engineer, according to what may have happened.

3. There is no precise form adopted for an extended protest, and legally I see no objection to a Port officer extending a protest if he knows how to do so, but it requires some care and knowledge, and, as it is not material to have the protest extended before the same notary or other official in whose office it was noted, it would, unless the voyage were entirely ended at the port at which the vessel has arrived and at which the protest is noted, be advisable for the Master to take a certified copy of the note of protest and have it extended at the end of his voyage or at the first port he may come to where there is a Notary Public.

ORDER—dated 30th January 1893, No. 46, Marine.

In the circumstances now represented, and in modification of paragraph 1 of G.O., dated 12th March 1890, No. 96,* the Governor in Council authorises Port officers to "note" and "extend" marine protests.

2. The authority given in paragraph 1 may be exercised only when there is no Notary Public at the port, and that fact should invariably be set out by the Port officer in the document.

3. A fee of Rs. (5) five for noting or extending a protest will be charged in each case, of which the Port officer will receive one-half in the usual way.

(True Extract.)

Ag. Chief Secretary.

To the Presidency Port Officer.
" Accountant-General.

Exd. A. Raitt.

Sobdt. of {1893} Madras.

MARINE.

Issued

Recd.

Encl.

G.O., 30th January 1893, No. 46.

JANUARY.

Marine Protests.

Authorizing Port officers, in modification of paragraph 1 of G.O., dated 12th March 1890, o. 96, to "note" and "extend" — only when there is no Notary Public at the port, and allowing a fee of Rs. 5 to be charged in each case.

2-10-05 ✓ 18/11/35 ✓

17-5-16 ✓

29-12-17 ✓

3/6/22 ✓

23-9-37 III ✓

27-11-39 III ✓

2-8-47 VI ✓

17-12-51 VII ✓

12-5-71 ✓ 43

8 8 09