

- (1) பக்கங்களின் எண்ணிக்கை 6
 (2) புதுக்கித் திருப்பிய நாள் 26/09/90
 (3) ஆதாரங்குறிப்பவர் சுருக்கொப்பம் 10/90

தமிழ்நாடு ஆவணக் காப்பகம்.

60

தமிழ்நாடு அரசு

PWD துறை

அரசாணை எண். மு. கோப்புத் தாள் எண்.	315	அச்சகம் பலவகை
நாள் :	3-2-1892	198

மடிக்கவோ கண்டபடி கையாளவோ கூடாது

3 Sheets

ஆவண. கா-1-18,006-15-6-87.

Handwritten signature

(18)

No 14.

Madras 23rd January 1892

From

Ernest Barclay

Government Solicitor

Madras

To

The Secretary to Government

Public Works Department

Madras

Sir,

1. I beg to acknowledge receipt of copy G.O. No 165 dated 16th instant with the file of papers accompanying same.
2. The case regarding the loss of the four cases fuses and one case detonators per S.S. "Kerbela" starts with the fact, admitted on both sides, the Government and the British India Steam Navigation Company Limited, that the cases were shipped under an agreement - that, should no opportunity occur to land them on the ship's arrival at Gopalpore, the cases were to be thrown overboard. The only question therefore is whether there really was an opportunity of landing the cases while the vessel was at Gopalpore and as to this the evidence is very conflicting.
3. The case of Government as put forward by the Port Officer at Gopalpore is that the "Kerbela" was entered at that Port merely - for the purpose of landing these cases, the vessel having no other cargo to land or to ship there, and that the mail boat was sent off to the Vessel with instructions to land these cases, the Port Officer sending a letter with the boat to the Commander asking him to send the cases on shore by the Mail boat.
4. On the other hand it is contended for the Vessel that the surf was too bad to work cargo, a fact which is admitted in the Port Officers letter No 771 of 14th August 1891 to the Presidency Port Officer, further that the Port Officers letter to the Commander -

of

of the "Kerbela" was not delivered to him until after the boat which brought it had left the ship, a fact, if it be one, which may be due to the fault of those belonging to the Vessel or to the fact, if it be one, that the boatmen waited alongside only sufficient time to place the despatch box on the deck. It is also asserted on behalf of the Vessel, and this seems to me very important, that the Mail boat had hardly reached the ship's side when the signal was hoisted on shore to the effect that the boat was to return immediately, and this is said to account, as no doubt, it would account for the boatmen leaving the ship's side as soon as they did; that is, according to the Commander, immediately on seeing the shore signal recalling the boat. That the signal was hoisted the Port Officer does not deny, and he says it was hoisted as ships are in the habit of detaining the Mail boat alongside for one or two hours, and he wanted to get the boat back before dark. It seems to me that the Port Officer adopted two courses distinctly opposed to each other, he sent the mail boat off to bring the cases ashore and at the same time or very soon after, at any rate so soon that the signal must have been flying at the time the boat got alongside the vessel, signalled to the boat to return immediately. The Port Officer's statement that many people were watching the boat alongside the vessel for a considerable time is one of those vague statements which must be accepted with caution, for it is not stated who those persons were, they do not appear to have been examined and we do not know for how long they may have watched the boat going to the vessel or how long they may have seen her alongside or how long they watched her returning. If half a dozen of them were examined separately on these points they would, in all probability, give quite different periods.

5. The Port Officer seems to make a strong point of the fact that the Commander of the "Kerbela" could have signalled that it was his intention to throw the cases overboard, when another boat could have

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have been procured and sent for the cases. I do not know whether it was any part of the duty of the Commander, under any circumstances, to do this; but, it seems to me that, in the present case, the Commander was misled by the action of the Port Officer. To start with, - there was the fact that the surf was too high to land cargo, so the Commander would naturally expect that no cargo boat would put off, and then there was the fact that only the mail boat came alongside and left immediately owing to the Port Officer's signal for her to do so. If the Port Officer's letter to the Commander had been delivered at once no doubt the cases would have been sent ashore in the mail Boat; but, as the sender of the letter, it would be for the Port Officer to prove that it was duly delivered and that, I think, it is clear he is not in a position to do.

6. On the whole therefore I am of opinion that the weight of evidence is in favour of the "Kerbela" and that the value of the fuses and detonators cannot be recovered from the British India Steam Navigation Company Limited.

7 I return the papers sent to me.

I have the honor to be

Sir

Your Obedient Servant

Ernest Barclay

Government Solicitor

P. W. CURRENT No. 746

No. 165W of 16-1-92

Am

For orders
with reference to the
Hon. Member's note
dated 15 January

S

WWS
25-1-92

Thought so. The opinion
bracketed on 1st Jan. 2nd Jan. 1892

WWS
31 Jan

WWS

H. 29-1-92

From orders

No. 315 W of 3rd February 1892
PUBLIC WORKS DEPARTMENT.

315/3

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following

Letter from the S. I. Circle No. 1233 G. W of 2nd
January 1892.
Nos. of Govt. P. W. D. No. 165W of 16 Jan'y '92
Letter from the Govt. Solicitor No. 14 of 23rd Jan'y '92

The opinion of the
Govt. Solicitor is com-
municated to the
Supty. Engineer I Circle
for information and
guidance in continuation
of G.O. 165W dated 16th
January 1892.

2. A copy of the opinion
will also be communica-
ted to the Marine
Department.

To the S. I. Circle
with Enclav. 20/2
Marine Dept.
with copy of opinion

WWS
1-2-92

S. I.

No. 315 W. d. / 3 D. Feb. 1892

3/8/2 J.C. 4/2

Mar. 29-1892