[Poll. / 8. / 1,000—24-8-97.]

Political (1897) Department.

ORDINARY MS.

G.O., No. 693

DATED 1—11—97

INDEXED.

[Despatch Abstract.]

Recording Pros: Judl: Dept: Considering that it is undesirable that the Dept: of Govt should institute legal proceedings against another Dept: without the special sanction of Govt; & instructing the Law officers to abstain from affording any advice or assistance in Cases of the kind to the parties concerned.

1/11-97

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Government {1897} of Madras.

JUDICIAL.

Order Mis No 69331-11-97

Recorded.

Civil Misc 31 + 45

Recd. 28-10 } 1897. *Enclosures*

Regd. 28-10 *Spare copies*

G.O., No. 1454, 7th October 1897.

OCTOBER.

Legal Proceedings by one Department of Government against another Department.

Considering that it is undesirable that one department of Government should institute legal proceedings against another department without the special sanction of Government; and instructing the law officers to abstain from affording any advice or assistance in cases of the kind to the parties concerned.

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GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

Read—again the following papers:—

G.O., No. 853, Judicial, dated 17th June 1897.

Read—the following letter from E. BARCLAY, Esq., Government Solicitor, to the Chief Secretary to Government, dated Madras, 7th May 1897, No. 292:—

I have been requested by the Superintendent of the Gun Carriage Factory to assist him in an appeal he is desirous of presenting in the name of the Government of India, under section XII of Madras Act III of 1893, against a decision of the Inspector of Steam Boilers under the same Act who presumably is an officer of the Madras Government, and I write to know whether, under these circumstances, I am entitled to refuse to assist an officer of the Government of India seeing that my services have not been requisitioned by the Inspector.

2. In this case as the matter was one of some urgency, I advised the Superintendent.

Order—No. 853, Judicial, dated 17th June 1897.

The Government Solicitor will be requested to submit to Government, at a very early, date a full report on the details of the case referred to. It is possible that an arrangement may be arrived at without recourse to proceedings in the courts.

(True Extract.)

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

To the Government Solicitor.

G.O., No. 1005, Judicial, dated 13th July 1897.

Read—the following letter from E. BARCLAY, Esq., Government Solicitor, to the Chief Secretary to Government, dated Madras, 28th June 1897, No. 348:—

I have the honour to acknowledge receipt of G.O., No. 853, dated 17th June 1897, requesting me to furnish a full report on the details of the case referred to in my letter No. 292, of 7th May 1897.

2. On the 5th May I received a letter from Captain Bell of the Gun Carriage Factory to know when it would be convenient for me to have an interview with him. In his letter Captain Bell says: "I am desirous of appealing in the name of the Government of India against a decision of the Inspector of Steam Boilers under the Madras Boiler Act. The time allowed for an appeal is short so the matter is urgent." On the 6th of May I saw Captain Bell by appointment, when he showed me certain correspondence between himself and the Inspector of Steam Boilers relating (so far as my recollection serves me the correspondence having been returned) to a question as to whether the Inspector was justified in licensing the boiler at a lower horse power than Captain Bell thought it should be licensed at.

3. The matter in dispute was of a highly technical character, and I therefore suggested (as there was no ample time to appeal if necessary) that he should go and see the Inspector personally, and since then I have heard nothing further of the matter.

Order—No. 1005, Judicial, dated 13th July 1897.

The Government understands that there has been some correspondence between the Superintendent of the Gun Carriage Factory at Madras and the Inspector of Steam Boilers with reference to the licensing, under the Madras Steam-boilers and Prime-movers Act, of a boiler in the factory. The Inspector will be requested, in the Public Works Department, to furnish Government with a report on the matter showing the stage which it has now reached.

(True Extract.)

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

To the Public Works Department.

Read—also the following paper:—

G.O., No. 2469 W., dated 6th September 1897.

Read—the following papers:—

G.O., No. 1005, Judicial, dated 13th July 1897.

Memorandum No. 3336-C, dated 27th July 1897.

From the Sanitary Engineer, dated 2nd August 1897, No. 1318.

In forwarding the report called for by No. 3336-C, dated 27th July 1897, I have the honour to call attention to the following points:—

(1) That the Boiler Inspector once having granted a license had no power to alter that license without previous reference to me—*vide* Rule 31 of the Boiler Act Rules; this I have pointed out to him, but the circumstances were doubtless peculiar.

(2) That the boiler was made in 1892 some five years ago. A question, therefore arises (the rules are not clear in this respect) for what period the factor 5 and its additions (excepting Y Rule 19) is to be used. The boiler in question although under steam only 300 days was five years old and it might have been exposed to any action during that time whether it was lying here or in England. The recognition therefore of a certificate (Rule 19-Y), I contend, ought to be limited to the case of new boilers when first licensed and to such boilers, say, up to ten years after manufacture, provided that the boiler does not show any defect during that period.

(3) Another question is the question of the Government Solicitor in this matter. As authorities under the Boiler Act if a case comes into court, the Government Solicitor would naturally be expected to advise the officers working the Act and not persons affected by the Act; I beg to be informed whether I am correct in this view—other Government officials are merely private persons so far as the Boiler Act is concerned.

From H. T. WALTERS, Esq., Inspector of Steam Boilers and Prime Movers, Madras, dated 2nd August 1897, No. 235.

With reference to G.O., No. 1005, Judicial, dated 13th July 1897, requesting to furnish a report regarding the correspondence which occurred with Captain Bell, Superintendent, Gun Carriage Factory, Madras, I have the honour to state that the correspondence arose through the factor 6·65 having been used in the calculation of

pressure on shell of a Lancashire boiler now situated in the Gun Carriage Factory and built by Ruston and Proctor, Lincoln, England, for a daily working pressure of 100 lb. per square inch; my reason for using 6·65 was due to the certificate—*vide* Rule 19-Y, *Fort St. George Gazette*, dated 26th January 1897—not being produced on the date of examination. However, since that date, the Superintendent, Gun Carriage Factory, has asserted that he is prepared to swear on oath that the boiler was open to inspection during the period of construction by Inspectors provided by the Home Government. Therefore the certificate was granted for a pressure of 100 lb. instead of 88 lb. He has accordingly written for the certificate to certify the statement made.

I beg to state, for your information, that the boiler in question complies with the whole of the rules excepting that the circumferential joints are lap.

Order—No. 2469 W., dated 6th September 1897.

The Sanitary Engineer's letter read above will be communicated to the Judicial Department with reference to G.O., No. 1005, Judicial, dated 13th July 1897.

2. As regards the three points to which the Sanitary Engineer calls attention, he is right in his point (1). The question raised in point (2) will be considered in connection with the amendment of the rules under the Madras Steam-boilers and Prime-movers Act which is being dealt with separately. The question raised in point (3) will be remitted to the Judicial Department for consideration.

(True Extract.)

(Signed) F. J. WILSON,
Under Secretary.

To the Judicial Department.
„ Sanitary Engineer.

Order—No. 1454, Judicial, dated 7th October 1897.

His Excellency the Governor in Council considers it undesirable that one department of Government should institute legal proceedings against another department without his special sanction. If an officer considers himself aggrieved by the action of another officer acting in the discharge of his legitimate duties, his proper course is to lay the matter before Government and await its orders.

2 The law officers of Government will be instructed to abstain from affording any advice or assistance to either officer in a case of this description.

(True Extract.)

for *Chief Secretary.*

To all departments of the Secretariat.
„ all heads of departments under the Chief Secretary. (Pol)
Copy to the Honourable the Chief Justice (with C.L.).
„ „ Deputy Adjutant-General, Madras Command,
for the information of His Excellency
the Lieutenant-General Commanding the Forces.

Exd. C. M. Thumbuswamy.