

Public (1897) Department.

ORDINARY PRINTED.

G.O., No. 590

DATED 17-5-97

RECEIVED

[Despatch Abstract.]

Grant of Medical Certificates.

Directing, with remarks, that Medical officers shall in future invariably grant certificates when required by the ^{Whice} to do so; and ordering ^{that} an amendment ^{be made} in G.O. No. 1382 of 12th Augt/89.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	C 2273 of 97				14467 14-11-97.		

Government {1897} of Madras. PUBLIC.

Recd. } 1897. *Enclosures*
Regd. } *Spare copies*

G.O., No. 590, 17th May 1897.

MAY.

Grant of Medical Certificates.

Directing, with remarks, that Medical officers shall in future invariably grant certificates when required by the Police to do so; and ordering that an amendment be made in G.O., No. 1382, Judicial, dated 12th August 1889.

GOVERNMENT OF MADRAS.

PUBLIC DEPARTMENT.

READ—again the following papers :—

G.O., No. 1382, Judicial, dated 12th August 1889.

Read—the following letter from A. T. ARUNDEL, Esq., President, District Board, Kistna, to the Chief Secretary to Government (through the Surgeon-General with the Government of Madras), dated Masulipatam, 23rd May 1889, No. 44 :—

I have the honour to request the orders of Government as to the levy of fees by medical subordinates for the issue of certificates to persons who have been treated at Local Fund hospitals and dispensaries for injuries to the person. Such certificates are usually obtained with a view of getting compensation from the aggressor either in or out of court.

2. In some dispensaries, a charge of Rs. 5 has been made for the issue of each such certificate, and the matter has been under discussion by the different local boards without any unanimity of opinion being obtained.

3. The Sub-Collector who raised the question considers the charge excessive, and refers to the small fee of four annas which was formerly charged under the Factory Act for a certificate of age and was afterwards disallowed. The point seems to be whether the ready issue of certificates for a trifling fee is not likely to encourage extortionate demands for compensation and needless charges in criminal courts.

4. The District Surgeon thinks that the fee of Rs. 5 should not be reduced, as the complainant recovers the fee from the opposite party, and as it is necessary to compensate the medical subordinates for the annoyance and waste of time in granting the certificate.

5. The opinions of the different taluk boards are as follows :—

								RS.	A.	P.
Bezwaada Board	..	..	..	..	..	..	..	0	8	0
Guntur	..	..	..	..	..	..	..	0	8	0
Vinukonda	..	..	..	..	..	..	..	1	0	0
Répallo	..	..	..	..	..	..	..	No	charge.	
President, Masulipatam	..	..	..	..	..	..	..	5	0	0

6. The resolution of the district board asking for the orders of Government on the matter is enclosed.

No. O—235.

MEMORANDUM.

Submitted for the orders of Government.

2. Under paragraph 1 of G.O., No. 937, of 11th May 1881, Judicial Department, the claim for a fee of Rs. 5 appears to be a reasonable one, and in G.O., No. 1327, of

4th June 1880, Government has sanctioned a fee of Rs. 5 for giving medical evidence in a case of wounds tried by a Magistrate. If a fee is allowed, it ought not to be too low, otherwise it will encourage needless charges in criminal courts.

OOTACAMUND,
3rd June 1889.

(Signed) G. BIDIE, M.B., C.I.E.,
Surgeon-Genl. with the Govt. of Madras.

To the Chief Secretary to Government.

Order—No. 1382, Judicial, dated 12th August 1889.

With reference to the question raised in the foregoing letter from the President, District Board, Kistna, the Government considers that a fee may legitimately be charged for a certificate, opinion, or evidence given by a Medical officer in Government, Municipal or Local Fund service at the instance of a private person for any purpose, whether it be in connection with a civil or criminal proceeding or not, and the fact that such person was treated in a State, Municipal or Local Fund hospital should not exempt him from payment of such fee.

2. As regards the fee to be charged, it is for the public interest that it should be fixed high enough to prevent the duties of the Medical officer as a public servant being wantonly interfered with, and the Government is of opinion that a fee of Rs. 5 may be fairly charged in each case.

3. In connection with this subject, the further question arises whether Medical officers who are public servants should receive any fee from public revenues for giving certificates, opinions, or evidence regarding any proceeding of public interest, such as inquests or judicial inquiries into non-compoundable offences. The Government does not consider that they should, and in the case of Medical officers in Local and Municipal employ, the Government pays a portion of their salaries expressly in order that such public services may be claimed as of right. The orders of Government, dated 4th June 1880, No. 1327, and 11th May 1881, No. 937, so far as they conflict with the orders now issued, will be considered as cancelled.

(True Extract.)

J. F. PRICE,
Chief Secretary.

To the Surgeon-General.

„ all District Magistrates.
„ all District Judges.
„ the Chief Presidency Magistrate.
„ the Local and Municipal Department.
„ the Public Department.
„ the Accountant-General.

G.O., No. 865, Public, dated 13th August 1896.

ABSTRACT.—Directing that in future the fee to be charged for a certificate, opinion or evidence given under certain circumstances by a Medical officer in Government, Municipal, or Local Board service shall not exceed two days' pay (without allowances), subject to a maximum of Rs. 5; and that no medical subordinate shall have recourse to a court of law for the recovery of a fee except with the previous permission of a District Medical Officer, or of the Chairman of a Municipality, or the President of a District Board, as the case may be.

READ—also the following papers :—

From J. N. ATKINSON, Esq., Collector and Magistrate, Kistna District, to the Chief Secretary to Government, dated Masulipatam, 14th October 1896, R. C. No. 1488—Mgl.

Referring to G.O., No. 1382, Judicial, dated 12th August 1889 (amended by G.O., No. 865, Public, dated 13th August 1896), I have the honour to point out that there is room for apprehension lest the effect of the instructions therein should lead

No. 590, PUBLIC, 17TH MAY 1897.

Medical officers to make light of serious injuries. In a recent case in this district a woman was beaten by her fellow villagers. Information was taken to the nearest police station and the station house officer on proceeding to the spot found the woman scarcely able to speak, covered with bruises, and bleeding from her mouth; and accordingly sent her to the Bapatla Local Fund dispensary.

2. The Civil Apothecary certified to the following injuries:—

- Contusion of—
 (1) Right half of upper $\frac{1}{2}$ and $\frac{1}{2}$ of back,
 (2) Do. of lower $\frac{1}{2}$ of back,
 (3) Front half of neck,
 (4) Front of right upper arm,
 (5) Front of lower $\frac{1}{2}$ of left upper arm,
 (6) Back of middle third of left thigh,
 (7) A punctured superficial wound about $\frac{1}{4}$ of an inch in diameter to the right of the attachment of fold of mucous membrane on under surface of tongue.

I am of opinion that the injuries from (1) to (6) were probably caused by extreme violence with a blunt instrument and (7) with a sharp pointed instrument and that they are not of a serious nature."

3. On the strength of this certificate the District Medical and Sanitary officer asks that the hurt being simple, and the offence therefore compoundable, the prescribed fee should be recovered from the woman "through the Police" which I have informed him cannot be done.

4. I have had no communication from the Police about this case, but it is not impossible that they might complain that with the hope of getting a fee the Civil Apothecary has made too light of a serious case. I would respectfully suggest that in order to remove such a temptation the word "non-compoundable" be struck out of the first sentence of paragraph 3 of G.O., No. 1382, Judicial, dated 12th August 1889.

Endt. No. 2450.

Forwarded to the Surgeon-General with the request that he will obtain and submit the District Medical Officer's explanation of his action in the matter.

24th November 1896.

(Signed)

A. T. ARUNDEL,
Ag. Chief Secretary.

From Surgeon-Major-General C. SIBTHORPE, F.R.C.P.I., Surgeon-General with the Government of Madras, to the Chief Secretary to Government, dated Madras, 9th January 1897, No. 9.

With reference to your memorandum No. 2450, dated the 24th November 1896, I have the honour to subjoin the explanation of the District Medical and Sanitary Officer, Kistna:—

The letter of the District Magistrate is based on a letter of mine to him in which I pointed out that cases occasionally occurred in which persons suffering from simple hurt—non-cognisable cases—were sent to medical subordinates by the Police with letters asking for certificates and without any Magistrate's order and as an instance drew his attention to the case at Bapatla which he has quoted. From G.O., No. 1382, Judicial, dated 12th August 1889, such cases seem to be ones in which (a claim for a certificate being for private purposes) a fee may be charged, but the Government Order refers to non-compoundable offences as those for which no fee can be claimed and as the subject was not quite clear to me and as it was desirable that medical subordinates should know exactly in what cases a fee could be claimed, and in what it could not, I wrote to the District Magistrate for advice before issuing a circular.

2. For instance the Police would, I believe, have a right to order a medical subordinate to grant a certificate of injury, whatever the nature of the injury in cases of rioting, burglary, &c., in which a certificate was wanted simply to establish evidence of hurt. Also it must frequently happen, as in the case quoted, that the injuries received would at first sight be more alarming in appearance than in reality, or might be severe without quite coming under the description of "grievous hurt" which would make the case a cognisable one. In all doubtful cases too the Police would want medical advice as to the nature of injuries sustained before they could decide whether they should take up a case or not.

No. 590, PUBLIC, 17TH MAY 1897.

Want of explicit instructions might therefore lead to misunderstanding, to refusals to give certificates, wrongful claiming of fees, &c., which would be very objectionable.

3. I also asked whether the Civil Apothecary was entitled to a fee in the case quoted so that he might know for certain before taking any steps and if so whether he could recover the fee from the injured person through the Police as, the Police having taken up the matter, it might be necessary to get a formal statement from them to the person injured and generally to one in which a fee could be claimed, to get information as to her whereabouts and incidentally inform them of action taken to avoid misunderstanding. This latter, a minor and incidental point, is, however, the only one that has been answered, whereas the general question is the one on which information was wanted.

4. The District Magistrate has instead referred the matter to Government and has proposed the removal of the word "non-compoundable" altogether on the ground that the distinction will "lead Medical officers to make light of serious injuries" for purposes of gain. In such cases, however, a reference to a Civil or District Surgeon is always possible, and it is unlikely that medical subordinates would run such a serious risk for so small a gain. The remote possibility of this danger does not seem to me to counterbalance the danger of the evils pointed out by the late President, District Board, and the Surgeon-General in the letters on the strength of which G.O., No. 1382, was issued.

2. I consider Surgeon-Captain Vickers' explanation satisfactory and agree with him that the removal of the word "non-compoundable" as proposed by the District Magistrate would lead to evils which should be guarded against.

3. In my opinion, the District Magistrate's fears are more imaginary than real as no such case has ever occurred since the promulgation of the Government Order in 1889.

Endt. No. 206.

Referred to the Collector and District Magistrate of Kistna for remarks with advertence to his letter, No. 1488, dated 14th October 1896.

(Signed)

J. F. PRICE,
Chief Secretary.

FORT ST. GEORGE,
 26th January 1897.

From J. N. ATKINSON, Esq., District Magistrate, Kistna, to the Chief Secretary to Government, dated Masulipatam, 9th April 1897, Dis. No. 288-Magl.

In returning herewith endorsement, No. 206, dated 26th January 1897, I have the honour to offer the following remarks. I desire first to disclaim all intention of finding fault with Surgeon-Captain Vickers' action, or of bringing it to the unfavourable notice of Government, an intention with which the opening words of paragraph 2 of the Surgeon-General's letter, No. 9, dated 9th January 1897, lead me to think he credits me. My sole desire was to bring to notice what I thought was an inconvenient and possibly dangerous state of affairs.

2. Next I would point out with reference to the last sentence of paragraph 3 of Surgeon-Captain Vickers' letter quoted by the Surgeon-General, that I did answer the general question put by him, my answer running as follows:—

As to the general question, the District Medical and Sanitary Officer is referred to G.O., No. 1382, Judicial, dated 12th August 1889, G.O., No. 865, Public, dated 13th August 1886 and G.O., No. 1530-R., Judicial, dated 10th September 1896.

3. The inconvenience and possible danger that I had in view in a King Government to modify G.O., No. 1382, Judicial, dated 12th August 1889, was, lest an unprincipled Medical officer should give certificates not in accordance with facts, but with his pecuniary interests, that is to say, lest he should whittle down serious hurts so that they might come within the definition of compoundable offences.

4. The Surgeon-General says that no such case has ever occurred since the promulgation of the Government Order in 1889. It is obvious that except in flagrant cases, it would be very difficult if not impossible to prove that a Medical officer had

committed himself to such a line of conduct. Medical subordinates are often in very out of the way stations, and if the doubt as to the accuracy of a certificate were not very strong, it would generally be deemed inadvisable to take the patient to another Medical officer for examination, more especially bearing in mind the hesitation of every medical practitioner to condemn as wrong the opinion of a fellow practitioner.

5. In my letter Ref. on C. No. 1488-Mag. of 1896, dated 14th October 1896, to Government, which has given rise to this correspondence, I quoted a case where it seemed to me that there were some grounds for thinking that the Medical officer was mistaken in declaring the case not to be one of grievous hurt. Surgeon-Captain Vickers remarks of this case that it is one in which "the injuries received would at first sight be more alarming in appearance than in reality, or might be severe without quite coming under the description of grievous hurt." Accepting Surgeon-Captain Vickers' opinion on this case, and on the possibility of similar cases frequently occurring, I would point out that the natural and inevitable tendency of the Government order, whose alteration I have advocated, must be to make Medical officers always take the least serious view of such cases possible.

6. When addressing Government, I had not only this case in my mind, but others which I did not mention, being unable to give exact references. There was a case which I myself tried in Tanjore district in 1888. A very serious riot occurred near Shiyali, in which one man was wounded on the head and died a week or ten days afterwards. The Local Medical officer held a *post-mortem* examination and certified that the man died from the effects of the wound on the head and subsequent illness. When examined, the tenor of his evidence was that the wound was very simple, and that the death was due to improper treatment by a native physician which had caused tetanus. Pressed in cross examination he admitted that he had only seen the man the day after the wound was received, and never again till the body was brought for *post-mortem* examination; pressed still further, he very reluctantly admitted that his only reason for saying that the man died of tetanus was because a constable told him to say so.

7. I had also in my mind two or three cases in this district wherein the late Superintendent of Police Mr. Prendergast had told me that there was some reason to believe that medical subordinates have given false *post-mortem* certificates. I kept no note of the cases, nor can the present Superintendent find anything on record in his office.

8. Another case that I had in mind was that of a health certificate given by the medical subordinate at Tummerceode hospital in this district in 1895. A candidate for employment in Government service applied to him for a certificate and was refused, as the candidate alleged, because he could not pay a fee of Rs. 100. After waiting three or four days the Deputy Tahsildar sent the applicant for employment to the Karempudi dispensary for a certificate. The day after he left, the Tummerceode Medical officer sent a certificate disqualifying the applicant on the ground of heart disease. But the applicant returned from Karempudi with a certificate of fitness. As there was a conflict of opinion, I sent the applicant to the District Medical and Sanitary Officer who of opinion, I sent the applicant to the District Medical and Sanitary Officer who was reported to the Acting Surgeon-General who, however, did not see his way to finding that the Tummerceode Medical officer had given an intentionally false certificate. There was no doubt, however, that the certificate was wrong, and if a wrong health certificate can be given, how much easier to give a wrong certificate as to the nature of injuries. I think that if Government were to enquire they would find that there is reason to challenge the accuracy of large numbers of certificates given in injury and *post-mortem* cases.

9. But if there be reason to apprehend inconvenience or danger from the operation of G.O., No. 1382, Judicial, dated 12th August 1889, still more is this the case with the circular which Surgeon-Captain Vickers has issued, of which I annex copy, wherein he warns all medical subordinates "to refuse a demand for medical certificates in such cases (*i.e.*, cases where the injuries do not constitute grievous hurt) unless the person applying for the certificate is willing to pay the fee, or unless the Police have been

directed by a Magistrate to take up the case." It is obvious that the effect of the Government Order as interpreted in this circular is to make Medical officers the judges of whether a hurt is simple or grievous, thus conferring on them a power which should be reserved for the court alone. That this circular is operating inconveniently is brought to my notice by the District Superintendent of Police in his letter C. No. 806-Genl. of 1897, dated 29th March 1897, wherein he writes: "The station house officer of Inavolu station, Vinukonda division, on 3rd February 1897, had a case of hurt reported to him. He sent the wounded person to the first-class hospital assistant, Vinukonda, to know if the wounds were dangerous or not, so that he could deal with the case either as a grievous hurt which is cognisable and non-compoundable, or as simple hurt which is non-cognisable and compoundable. The hospital assistant in a letter, dated 9th February 1897, refuses to give the required certificate until he gets his fee. Until such certificate is received, we are unable to proceed with the case at all, and I think that the Medical officer who is asked for a certificate by the Police should be ordered to give one in all cases. Of course, such certificates will be sent at once to the Magistrate with an occurrence report so that the Police cannot make capital out of it. If this sort of demand goes on, the Police and medical subordinates will always be at variance, and it will be difficult for us to obtain certificates except in cases of a really dangerous nature. The Police will be tempted to burk other cases knowing how difficult it will be to obtain certificates."

ENCLOSURE.

Circular.

Instances are frequently occurring of the Police sending cases of simple hurt to hospitals and dispensaries for certificates on their own responsibility. All cases in which the inquiries do not constitute "grievous hurt" *i.e.*, all non-cognisable ones, are cases which the Police have not to take up unless specially ordered to do so by a Magistrate. Consequently by G.O., No. 1773, dated 16th October 1889, a medical certificate for any such cases, unless the Police have been ordered by a Magistrate to take it up, can be charged for, the rate fixed being Rs. 5 for hospital assistants and civil apothecaries. All medical subordinates are therefore warned to refuse a demand for medical certificates in such cases, unless the person applying for the certificate is willing to pay the fee or unless the Police have been directed by a Magistrate to take up the case.

(Signed) W. VICKERS,
Dist. Medl. and San'y. Officer, Kistna.

From J. N. ATKINSON, Esq., District Magistrate, Kistna, to the Chief Secretary to Government, dated Masulipatam, 10th April 1897, Dis. No. 292-Magl.

In continuation of my letter, Dis. No. 289-Magl. of 1897, dated 9th April 1897, I have the honour to invite the attention to the extract from the *Kerala Patrika* appearing in paragraph 55 of the report on native papers for the fortnight ending 31st March 1897. For convenience of reference I transcribe the paragraph below: "A leader in the Malayalam *Kerala Patrika* of the 20th March, referring to the iniquities committed by the Medical officers in granting health, *post mortem* and other certificates, says that such certificates are incorrect and untrustworthy as their tenor depends mostly upon the weight of the purse of the person to whom they are granted. In the matter of granting *post mortem* and other certificates, the Medical officers are forbidden to take money, but it is alleged that they receive money secretly and give false certificates. It appears that if in criminal cases persons who have suffered injury are sent to the hospital for treatment, the medical men in charge are said to receive bribes and convert simple hurt into grievous hurt and *vice versa*. To make the offence a grievous hurt, the patient should be kept in the hospital for more than 21 days; and the medical men to effect their purpose are, it appears, in the habit of discharging from the hospital patients who are not cured of their wound, and retaining those who have undergone a complete cure. The article, after referring to the matter at some length, invites the attention of the authorities to the desirability of making stringent rules in the matter of certificates granted by the Medical officers of Government, who, it is remarked, are completely demoralised."

ORDER—No. 590, Public, dated 17th May 1897.

His Excellency the Governor in Council agrees with the District Magistrate. G.O., No. 1382, Judicial, dated 12th August 1889, will accordingly be amended by the omission in the first sentence of paragraph 3 of the words "into non-compoundable offences."

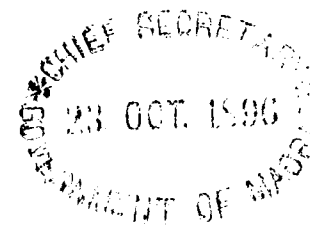
2. The Government further directs that Medical officers shall in future invariably grant certificates when required by the Police to do so. If in any case a Medical officer considers that unnecessary, or improper use is made of this rule by the Police, he should, after granting the certificate, report the matter to the District-Surgeon, who will bring it to the notice of the Police Department. Surgeon-Captain Vickers' circular should, in the light of the present orders, be withdrawn.

(True Extract.)

J. F. PRICE,
Chief Secretary.

To the Surgeon-General.
" the Local and Municipal Department.
" the Judicial Department.
" the Accountant-General.
" the District Magistrate, Kistna.
" all other District Magistrates.
" all District Judges.
" the Chief Presidency Magistrate.

1896.



FROM,

THE COLLECTOR *and Magistrate*

KISTNA DISTRICT.

TO,

THE CHIEF SECRETARY,

TO GOVERNMENT,

Judicial
~~LOCAL AND MUNICIPAL~~ DEPARTMENT,

FORT St. GEORGE.

Dated *14th October 1896.*
Despatched *20th October 1896.*
Received

RB No. *1488* of 1896.
in a/c

ENCLOSURES. *nil*

SUBJECT.

Suggesting that the word
"non-compoundable" be
struck out of the first sentence
para 3 of
G.O. 1382 of 12.8.89 to
remove such temptations
as mentioned within.

R 1530-10-9-96
1382 12.8.89
180 papers

G.O. No. 865, Pub. D. 13/10/96
original

Transferred to the Public Dept.

ag. Under Secretary

Regd. 12-11-96.

Public (1897) Department.

28
CURRENT No.

1488
1488
1488

From

Surgeon-Major-General C. Sibthorpe

P.R.C.F.I.

Surgeon-General with the Govt. of
Madras.

No. 7

~~Order~~

Enclosure N^o 206

Referred to the
Collector and District
Magistrate of Nistna
for remarks with
advice to his letter
No. 1488, dated 14th
October 1896.

Dated 9th January 1897.

Received

Registered

Enclosures

Spare copies



A. R. Knapp.

for Chief Secretary.

For D. B. George
26 January 1897

The Collector, District
Magistrate of Nistna.

SUBJECT.

Forwarding the explanation of the
District Medical and Sanitary Officer
regarding the granting of a Medical
Certificate in case of hurt (non-
cognisable).

BACK PAPERS.

G.O.	No.	Department.	Date.
	1382	Int'l	12-5-89
	965	Pub	13-8-96
	937	Int'l	11-5-87
	1327		4-6-80

FURTHER PAPERS.

G.O.	No.	Department.	Date.

[G.]
74
500-211-7-05

NOTE FOR THE CHIEF SECRETARY.

Please see the note for Orders on C. 3797 and also C. 143 which contains the explanation of the Dues. This does not altogether agree with the statement in C. 3797.

It is submitted that the Dist. Magte should be given the opportunity of replying, and the following Endt. on C. 143 is submitted for approval:- Endt. No. ²⁰⁶ 26.1.97

Referred to the ^{Mr. Magte} Collector of Kistna for remarks with advancement to his letter no. 1488 dt 14.10.96.

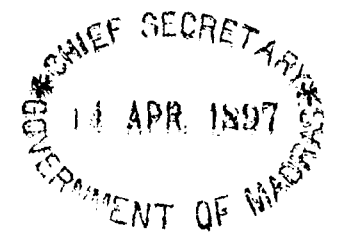
30.13
18.1.97.

23/1/97

To
The Collector and Dist. Magte, Kistna

Public (1897) Department.

CURRENT No.



From

The District Magistrate
Mishra

Order

Dis No. 288 of 1897
ccag

Dated 9th April 1897

Received 14 } - 4 - 97

Registered 15

Enclosures Two (C 143 M. L. M. D.)

Spare copies DESPATCHED

SUBJECT.

Reporting about the
grant of certificates
by medical subordinates
in cases of "hurt"

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Public (1897) Department.

CURRENT No.

Order

From

The District
Magistrate
Hisna
D/o No. 282 off 7
mag

Dated

10th April 1897

Received

Registered

Enclosures

Spare copies

Nil.

DEPARTED

SUBJECT.

During the attention to
the extract from the
"Herala Patrika" appearing
in para 55 of the Report
on Niche papers for
the fortnight ending 31
March 1897.

BACK PAPERS.

G.O.	No.	Department.	-Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Hon Mr. J. W. Buss C.R.

For Orders

Under G.O. 1382 Tadd 12.8.0.
 "a fee may legitimately be charged for a certificate, opinion or evidence given by a medl officer in favour of a municipal or local fund serv. at the instance of a private person for any purpose" &c. and para. ruled that medl officers who are public servants should not receive any fee from public revenues for giving certificates, opinions, or evidence regarding any proceeding of public interest such as inquests or judicial enquiries into non-compoundable offences. It was added that, in case of medl officers in d & m employ, the govt pays a portion of their salaries expressly in order that such public services may be claimed as of right.

In the present current the D. of Kistna states that "there is no for apprehension but the effect of the instructions given above should lead medical officers to make light of serious injuries and suggests that, in order to remove such a temptation the word "non-compoundable" may be omitted from 3 of the G.O. quoted.

In support of his contention D.M. quotes a recent case in which a woman was beaten by her fellow villagers ~~and~~ ^{receiving} wounds in various parts of her including side more also a contusion and "a punch superficial wound on the surface of her tongue". The name of the woman was

[illegible]

In October 1896 the District Magistrate of Kistna pointed out that there was room for apprehension lest ~~the~~ ^{the} effect of the instructions given in the Judicial G.O. quoted above should lead medical officers to make light of serious injuries, and suggested that in order to remove such a temptation the word "non-compoundable" might be omitted from para. 3 of the G.O.. In support of his contention the District Magistrate quoted a case which occurred in his district where a woman was ^{badly} beaten by her fellow villagers, receiving wounds in various parts of her body including six more or less severe contusions and "a punctured superficial wound on the under surface of her tongue". The Civil Apothecary who examined her gave it as his opinion that the former wounds were probably caused by "extreme violence" and that the injuries ^{were} not of a serious nature.

On the strength of this ^{opinion} ~~statement~~ Surgeon Captain Vickers, the Dt. Medical and Sanitary Officer requested that, as the hurt was simple and the offence compoundable, the fee should be recovered from the woman through the Police. The District Magistrate declined to take this course.

This letter of the District Magistrate was forwarded to the Surgeon General to obtain and submit the Dt. Medical and Sanitary Officer's explanation of his action in the matter.

That officer's explanation briefly this:- that he wished to

* C. 3797 of 96

C 3797 of 1896

C. 143 of 197

* 1382 Jul 7 89 A
865 Feb 7 86 B
1530 R Feb 7 96 H

ascertain definitely whether in such cases as that mentioned by the Dt. Magistrate where a person was sent to hospital for a certificate by the Police, without any order from a Magistrate, a fee should be charged if the case should turn out to be compoundable. Surgeon Captain Vickers pointed out that there may be cases in which the Police ~~shall~~ not tell until they receive the certificate, whether injuries were so serious as to constitute grievous hurt. If they send a patient for a certificate and it turns out that his wounds are serious no fee is chargeable: if the wounds are not so serious as they ^{at first} appear a fee is then legitimate, and a difficulty arises over the recovery of it. Surgeon Captain Vickers asked for instructions. The District Magistrate however referred the matter to Govt. merely drawing the attention of Surgeon Captain Vickers to the G.O's. on the subject. Surgeon Capt. Vickers considers the fear of the District Magistrate, expressed in his letter to Govt., "that the distinction (between compoundable and non-compoundable cases) will lead medical officers to make light of serious injuries for purposes of gain", unfounded, as in such cases a reference to a Civil or District Surgeon is always possible and it is well known that subordinates will

He does not think it advisable to strike out the word "non-compoundable" from the G.O., as the District Magistrate suggests.

The Surgeon-General agrees with the District Medical and Sanitary Officer that the removal of the word "non-compoundable" would lead to evils, and considers that the District Magistrate's fears are more imaginary than real, as no such cases have ever occurred since the promulgation of the G.O. in 1889.

The Surgeon-General's letter containing the Dt. Medical and Sanitary Officer's explanation was referred for remarks to the District Magistrate of Kistna. He states that the inconveniences and possible dangers which he had in view in asking Govt. to modify G.O. 1382 Jul. 1., dated 12-8-89 are those which might arise if an unprincipled medical officer should give certificates in accordance not with the facts but with his pecuniary interests, that is to say, if he should whittle down serious hurts so that they might come within the definition of compoundable offences; that as regards the case which he brought to the notice of Govt. it seemed to him that there were at the time some grounds for thinking that the medical officer was mistaken in declaring the case not to be one of serious hurt though he accepts the Dt. Medical and Sanitary Officer's That officer's

briefly this:- that he wished to

c. 1483 of 91

Vide paras 6-8
of C. 1483

natural and inevitable tendency of the Govt. Order is to make medical officers always take the least serious view of such cases possible.

The Dt. Magistrate in support of his contention cites certain instances of untrustworthy certificates which he has either known personally or heard of.

As to the Surgeon-General's remarks in support of Surgeon-Capt. Vickers's explanation the Dt. Magistrate says that it is obvious that, except in flagrant cases, it is very difficult to prove that a medical officer has given a false certificate, medical subordinates are often in very-out-of-the-way stations, and if the doubt as to the accuracy of a certificate is not very strong, it is generally deemed inadvisable to take the patient to another medical officer for examination.

The District Magistrate submits with his letter a copy of a circular issued by Surgeon Captain Vickers to the medical subordinates in the Kistna District. The circular points out that the Police are constantly sending up, on their own responsibility, cases of simple hurt ~~for certification~~ for certificates. It lays down a rule that no certificate should be given to the Police in cases of simple hurt without a requisition from the Police produce ~~written~~ as sent to

the Hospital by the Police. How

the District Magistrate objects to this circular on the ground that it makes the Medical Officer the judge as to whether an offence is simple or grievous hurt, a point which ^{is for a Court to} ~~is for a Court to~~ decide. He also reports that the circular has caused much inconvenience. The Supt of Police has pointed out a case in which the Police having sent a man for examination to the Hospital Assistant, Vinukonda, in order to find out whether his injuries constituted grievous or simple hurt, the Hospital Assistant refused to give a certificate without the fee, and the police, not knowing whether the case was prima facie cognizable or not, could proceed no further. The Supt. suggests that in all cases the request of the Police for a certificate should be complied with. He points out that as long as the present conditions are in force there is bound to be disagreement between the Police and the medical subordinates, and he suggests that the difficulty in obtaining certificates will tempt the Police to suppress ^{of wounds} cases of a dangerous nature.

The District Magistrate in a further current (No. 1243 of 1897) invites attention to an article in the "Kerala Patrika" on this subject. (The article is summarized in the report on native papers for the fortnight ending March 31st page 74).*

In confidential cover.

The ~~main~~ ^{main} order is briefly this:- that he wished to

G.O. no 1382 Jd^e d. 12-8-89 is required

That G.O. while permitting a fee to be charged for a certificate given at the instance of a private person, directs (in para 3) that no fee shall be ~~be~~ claimed, from public revenues, for evidence, or for a certificate, given regarding, any proceeding of public interest. As instances of such proceedings are mentioned "inquests or judicial inquiries into non-compoundable offences". It is submitted that these instances were never intended to exhaust all the cases of public interest in which a reference might be made to a Medical Officer. Any case in which a Police Officer makes any enquiry is, for the time being, a matter of public interest, even if it eventually turns out to be non-compoundable: "all such cases therefore the services of a Medical Officer are, it is submitted, at the disposal of the Police without any fee.

I don't know that
to send to 20

In the case which has given rise to the present reference to Govt. the woman was sent to the hospital by the Police.

in cases

case turned out to be a compoundable one, Mr. D.M. & S.O. therefore claims a fee. The D.M. appears to think that under present orders such a fee is claimable: he therefore asks that the existing order may be modified. But as the woman did not get the certificate at her own instance no fee can be claimed from her under para one of G.O. no 1382. The D.M. & S.O. therefore is asking that the P.O. should recover the fee from her.

misinterpreted the G.O. in question.

Supt. Captain Vicker's view of this order has is not: it would appear, one which is adopted by the medical officers: had it been so it is almost certain that similar cases to this present one could have arisen in the seven years which have elapsed since the order was passed.

It is submitted that this D.M. may be told that ^{for the above reason} under the G.O. (no 1382 J.A. 12.8.09) no fee can be claimed in any case ^{any} which ^{any} person takes, ^{any} opinion or certificate is given at the instance of the P.O.

... the question arises whether Medical Officers who are public servants should receive any fee from public revenues for giving certificates, opinions, or orders regarding any proceeding of public interest, such as inquest or judicial inquiries into non-compoundable cases. The Govt does not consider that they should.

* viz that if certificates are easily obtained by private persons, charges in criminal courts are rendered superfluous. & therefore more numerous.

To the word "non-compoundable" in the G.O. under reference seems to have been Mr. D.M. & the D.M. & S.O. who ^{supposed} it may perhaps be ~~overlooked~~, or ^{supposed} that the instances of public proceedings may be left out altogether, the words from "such" to the end being omitted.

The Supt. Genl. & the D.M. & S.O. object to this omission of the word non-compoundable, on the ground that it will lead to a removal of the ^{provision by Mr. Arnold & the S.O.} ~~provision~~ to avoid the G.O. no 1382 ^{of 1889} ~~which~~ passed. The objection is not a valid one seeing that the rule brought to the notice of Govt. in the correspondence in that G.O. had reference to cases where certificates were given to private persons: the ^{provision in} ~~consideration of~~ the ^{provision in} ~~subsequent~~ cases of public interest emanated from Govt. A modification of para 3 can therefore not affect the private cases to which Mr. Arnold referred in his letter printed in the G.O.

Supt. Captain V. Vicker's
circular which was Red. Submitted
not to grant certificates in all
cases in which the inquiries

(Order complete. 3 5-0.

at the place marked I consider that Medical Officers should always
give certificates when called upon by the Police who if they do so unnecessarily
can be brought to book. I think it desirable that the word "concomitabile" should
go out of the English & the word "judicial enquiry" would save trouble
here in getting certificates without any inquiry or inquiry into the cause of the accident.

I agree with the C.S. - I will not suppose
however ^{to} bring to mind the one word.
The words ^{are} into un-comprehensible cases "
Should & art. Dr V's circular should
be with drawn 1/2

66561
NY

$$\left[\frac{G.}{24.} \right]$$

Papers to be read in proceedings :--

180

" " 1543 " 1897, " 10/4, " d_2 , d_2 , d_2 (a)

ORDER. W. 590 of 17th May '97
D.S.

His Excellency the Governor
in Council agrees with the District
Magistrate. G.O. No.1382, Judicial,
dated 12th August 1889 will accordingly
be amended by the omission in the
first sentence of para. 3 of the words
" into non-compoundable offences."

2. The Government further ^{shall in future} directs that Medical Officers ~~should~~ invariably grant certificates when required by the Police to do so. If in any case ^a ~~the~~ Medical Officer considers that unnecessary or improper use is ^{by the Police,} made of this rule, ^a he should, after granting the certificate, report the matter to the District Surgeon who will ^{bring it to the notice} ~~call the attention~~ of the Police Department ~~to the matter~~. Surgeon Captain Vickers' circular, in the light of the present orders, be withdrawn.

Notes

It is submitted that it will be as well to point out in some such way as this how the police are to be brought to book if they abuse their

The Surgeon-General. *privilege*

.. Local & Municipal Department.

.. Judicial Department.

„ Accountant-General.
 „ Dist Magistrate, Kistna
 All other Dist magistrates
 „ Dist Judges
 The Chief Presidency Magistrate

AK. (from notes)
14/5/97. 12.15/97

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Trichinopoly. 8
Vizagapatam. 8

[36]

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Kurnool.	6
Madura.	11
North Malabar, Tellicherry.	9
South Malabar, Calicut.	6
Nellore.	6
Nilgiris, Ootacamund.	6
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