M.R. O. 1—32,000—18-10-39.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2090 Press Mis.

412-413

Dated 15th July 1869

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
19*th July* 1869.

No. 412. Read the following Proceedings of the Madras Government in the Judicial Department :—

Declining to pass orders on the subject of an Officer holding an appointment, Judicial or Revenue, who has been gazetted to another appointment, retaining his original appointment until re-[illegible], in connection with the case of Mr. Hathaway, Sub-Collector of Bellary. } (Here enter 8th July 1869, No. 1,108.)

No. 413. ORDER THEREON, 19th July 1869, No. 2,090.

Miscellaneous. ORDERED to be recorded.

(True Extract.)

(Signed) H. WELLESLEY,
Acting Under-Secretary to Government.

Exd. F. R. Bantleman.

Govt. of Madras 1869 Judl. Dept.

REVENUE.

No.

Dated July, 19th.

Read.

G. O., 19th July 1869, No. 2,090.

Encl.

JULY.

Nos. 412-413.

Officer gazetted to another appointment.—Proceedings Judicial Department on the subject of his performing the duties of his original appointment until relieved, recorded.

6/21

Proceedings of the Madras Government, Judicial Department, 8th July 1869.

Read the following papers :—

No. 34. From the Collector of South Arcot, to the Chief Secretary to Government, Fort Saint George; dated Cuddalore, 7th June 1869, No. 38.

I communicated the Government telegram of the 4th instant to Mr. Hathaway, to whom I had previously expressed my opinion, that as he stood appointed as Sub-Collector of Tanjore, he could legally do no more duty as Sub-Collector in South Arcot, and this opinion was based on my own case in the year 1842 or 1843, I think, when Government cancelled my appointment as Registrar in Canara, which I had never joined, in order to legalize my acts as Head Assistant in Canara, the duties of which appointment I had continued to perform in face of my appointment to Bellary. Of course my recollection of the case is somewhat indistinct; but I am under the impression that my acts had been declared illegal without such cancelment, and I conceive that, from the date Mr. Hathaway received the *Gazette* notifying his appointment as Sub-Collector in Tanjore, his functions legally ceased as Sub-Collector of South Arcot.

2. Mr. Hathaway, who is living with me, however, thinks otherwise, and in answer to a note I wrote him this morning has sent me the enclosed answer, which, with his consent, I submit to Government in explanation of his refusal to give over charge to me either on the legal grounds, or in deference to your telegraphic instructions, and I shall be glad if the question mooted in this reference be definitely settled, as it is one likely to arise in the case of other officers of Government under similar circumstances.

From W. F. HATHAWAY, Esq., to the Collector of South Arcot; dated 7th June 1869.

I shall not leave the district for eight or ten days yet, and so it seems to me that I may as well go on doing work until relieved by Mr. Roberts.

2. Of course if he does not come by that time, *i. e.*, before I go, I should be obliged to give over to some one else.

3. I think that I have full power here until I formally give over charge, as I am not Sub-Collector of Tanjore until I take the oath of office there.

4. I do not think your previous telegram referred to the particular point in question, which simply is whether my powers cease on the date of the *Gazette*, or continue till I give over charge, and whether the day of giving over charge is optional with myself.

No. 35. From the Collector of South Arcot, to the Chief Secretary to Government, Fort Saint George; dated Cuddalore, 9th June 1869, No. 40.

I showed your telegram of the 8th to Mr. Hathaway, and offered to take charge of his office, but he refused to resign charge, and informed me that he did not intend to join Tanjore for another week, or until he was relieved by Mr. Roberts.

2. Mr. Hathaway left Cuddalore this morning for his division, taking his office with him.

No. 36. ORDER THEREON, 8th July 1869, No. 1108.

The question raised in the correspondence above recorded, namely, "whether an officer holding an appointment, Judicial or Revenue, who has been gazetted to another appointment, can legally perform the duties of his original appointment until relieved by his successor," has not been legally determined, and the Government see no reason for laying down any rule of guidance.

Proceedings of the Madras Government, Judicial Department,
8th July 1869.

2. The Governor in Council considers that Mr. Hathaway acted improperly in not immediately complying with the order conveyed to him in the Chief Secretary's telegram, directing him to join forthwith his appointment in the Tanjore district.

(True Extract).

Chief Secretary.

To the Collector of South Arcot.
To W. F. Hathaway, Esq.
To the Revenue Department.
„ Board of Revenue.
„ Accountant General.

Exd. J. Wright.

Revenue Depart.

Govt. of [1869] Madras

JUDICIAL.

To

No. 2342.

THE COLLECTOR OF SOUTH ARCOT

&c., &c., &c.

Dated July, 8th.

Recd. 11th. *Encl.*

G. O., 8th July 1869, *No* 1108.

JULY.

Nos. 34–36.

Declining to pass orders on the subject of an officer holding an appointment, Judicial or Revenue, who has been gazetted to another appointment, retaining his original appointment until relieved, in connexion with the case of Mr. Hadaway, Sub-Collector of Bellary.

No. 2090.

RECEIVED.

412-413

19th July 69