CONFIDENTIAL.

[G. 11]
200-23-11-96.

Judicial (1896) Department.

ORDINARY Mis Press

G.O., No. 1295

Confidential No. 112

DATED 13-8-96

[Despatch Abstract.]

N. Swaminatha Aiyar

Directing, for reasons stated, the removal from the public service of —, late Sub-judge of Ellore.

BACK PAPERS.

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

G.		Department.	Date.

Receipt for a Registered Article.
RECEIVED a registered article **No. 778** addressed to—
(Name) Mr C. S. Cole I.C.S
Chepak
P. O. of Address Madras
WW Registration Clerk (initials).

Receipt for a Registered Article.
RECEIVED a registered article **No. 779** addressed to—
(Name) V. A Brodie Esqr
Godavari
P. O. of Address Kakinada
WW Registration Clerk (initials).

Receipt for a Registered Article.
RECEIVED a registered article **No. 780** addressed to—
(Name) T. N. Atkinson Esq
Kistna
P. O. of Address Masulipatam
WW Registration Clerk (initials).

Receipt for a Registered Article.
RECEIVED a registered article **No. 809** addressed to—
(Name) Sir arthur collins
P. O. of Address Madras
KN Registration Clerk (initials).

Receipt for a Registered Article.
RECEIVED a registered article **No. 946** addressed to—
(Name) Honorable Sir arthur Collins
P. O. of Address Madras
WW Registration Clerk (initials).

Receipt for a Registered Article.
RECEIVED a registered article **No. 947** addressed to—
(Name) T. N. Atkinson Esqr
P. O. of Address Masulipatam
Registration Clerk (initials).

Receipt for a Registered Article.
RECEIVED a registered article **No. 948** addressed to—
(Name) The Dt Magistrate
P. O. of Address Cocanada
WW Registration Clerk (initials).

Receipt for a Registered Article.
RECEIVED a registered article **No. 949** addressed to—
(Name) F. C. Harrison
P. O. of Address Madras
WW Registration Clerk (initials).

Receipt for a Registered Article.
RECEIVED a registered article **No. 950** addressed to—
(Name) [illegible] Esq
P. O. of Address Madras
WW Registration Clerk (initials).

ENT) No.

...vernment Pleader's Office,
HIGH COURT
July 1896.

...LEADER,
Madras,

Govt,
...artment.

...acknowledge the receipt of the
...of the 20th instant together with

...consultation with the Advocate
... which my opinion has been
... in detail the evidence in
...rges.
...inion that there are not
...ting a criminal prosecution
...n either of the charges.
... Cole's report is enclosed an...
Parcel Post.
I have the honor to be,
Sir,
Your most obedt Servt
...Subrahmanyam
ag: Govt Plea...

Receipt for a Registered Article.

RECEIVED a registered article No. 946 addressed to—

(*Name*) The Honorable Sir A. Turnbull Collins

P. O. of Address Madras

Registration Clerk (initials).

G.O.		artment.	Date.

Receipt for a Registered Article.

RECEIVED a registered article No. 947 addressed to—

(*Name*) C. W. Atkinson Esq

P. O. of Address Masulipatam

Registration Clerk (initials).

G.		rtment.	Date.

Receipt for a Registered Article.

RECEIVED a registered article No. 948 addressed to—

(*Name*) The Dt Magistrate

P. O. of Address Cocanada

Registration Clerk (initials).

Receipt for a Registered Article.

RECEIVED a registered article No. 949 addressed to—

(*Name*) J. C. Harrison

P. O. of Address Nellore

Registration Clerk (initials).

Receipt for a Registered Article.

RECEIVED a registered article No. 950 addressed to—

(*Name*) N. Subrahmanyam Esq

P. O. of Address Madras

Registration Clerk (initials).

CURRENT No.

Government Pleader's Office,

HIGH COURT

Madras, July 1896.

No.

From

N. SUBRAHMANYAM, ESQ.,

ACTING GOVERNMENT PLEADER,

Madras,

To

THE Chief Secretary to Govt.,
Judicial Department.

SIR,

I have the honor to acknowledge the receipt of the Order of Government No. 1195 of the 20th instant together with the enclosure.

2. I have had a long consultation with the Advocate General on the question on which my opinion has been asked and we have discussed in detail the evidence in support of each of the charges.

3. We are both of opinion that there are not sufficient grounds for instituting a criminal prosecution against the Sub Judge on either of the charges.

4. The Honorable Mr. Cadell's report is enclosed and the other records are sent by Parcel Post.

I have the honor to be
Sir,
Your most obed^t Servt

N. Subrahmanyam

Actg. Govt. Pleader

CHIEF SECRETARY
1. AUG. 1896
GOVERNMENT OF MADRAS

1158

[G. / 9]
4,000—28-1-96.

Current No. 3412

Judicial Department.

From

Govt. Pleader.

No.

Dated – July
Received 1 Augt } 1896
Registered 3 "
Enclosures one recd.

SUBJECT.

Considers that there are not sufficient grounds for instituting a criminal prosecution against Sub Judge Swaminatha Aiyar.

[G. / 25 A.]
1,000—21-3-96.

Judicial Department

C. No. 3412

FOR ORDERS.

Nothing can, I fear, be done with the Sub J. but dismiss him. I have no doubt myself that he took bribes in cases I & III

BJ
4/8/96

I think the Sub Judge should be dismissed.

As regards Ramaraja I think it will be best to ask the opinion of the Govt. Pleader before instituting a prosecution

JG
5/8/96

1. I agree that the Sub. judge must be dismissed.
2. As regards Ramaraja, I think the opinion of the Govt. Pleader should be taken as to instituting a Prosecution.

A.G.H
10.8.96

The High Court declines to express any opinion upon the evidence recorded against Sub Judge Swaminatha Aiyar in view of the possibility of the matter coming before it judicially at some future stage – (vide Registrar's letter in Gr. No. 1198 Jud. 3 & 20.7.96) But the Advocate General and the Govt. Pleader both consider that there are not sufficient grounds for instituting a criminal prosecution against the Sub Judge on either of the two charges.

Orders are now solicited as to what is to be done with the Sub Judge. The dismissal of a sub Judge rests with Govt. under section 18 of Act III of 1873.

The Honble Mr Grose in

is note under cover of G.O.
No. 1070 Judl. d/ 26. 6. 96. considered
that Rangasami should be
prosecuted.

Mr Crole will be thanked for
his report, as already directed, in the
order passed hereon.

[initials] 3.8.96

It is apparently quite unnecessary to
call upon the late Subjudge for any
further explanation. He put in a
written statement before Mr. Meyer &
another before Mr. Crole pleading "not
guilty" to the charges & saying they
were due to the machinations of the
vakils. The Govt. Pleader might in
[initials] 3.8.96 a case of this nature have
given some grounds for his views.
I suppose that lawyer like, having
been asked a question the answer
to which is practically yes or
no he has not considered
reasons necessary.

[initials] 3/8/96.

Sub-Judge Swaminatha Aiyer.

—

FOR ORDERS.

H. M+Circ

G.O. 1295

C. 4/8

R. 10/8

[G./24.]
...-12-12-95.

Judl. DEPARTMENT.

Papers to be read in proceedings:—

Again G.O., dated 189 , No.

Again G.O., dated 189 , No.

Current No. of 189 , dated , from

" " " 189 , " , "

" " " 189 , " , "

27 Prin

[initials] 13/8/96

ORDER. No 1295 d/ 13 Augt. 1896.

P.S.

In January of the present year Mr. W. S. Meyer I.C.S. then Sub Collector & Joint Magte. of Godavari, was directed, at the request of the Hon. the Judges of the High Court, to conduct a preliminary investigation into certain charges of receiving illegal gratifications which had been preferred against ~~M.R.Ry~~ N. Swaminatha Aiyar ~~Avergal~~ when Subjudge of Ellore by some of the pleaders of his own court.

note
Surely these honorifics are quite out of the place when applied to a man who is to be dismissed for disgraceful conduct. I would omit them.
[initials]

2. Mr. Meyer submitted to Govt. in March a voluminous & careful report of his investigation, & upon a consideration of the evidence recorded by him, the Govt., and after consultation with the Hon. the Judges upon the matter, in G.O. 786. J. 29.4.96, appointed the Hon. Mr. C.S. Crole I.C.S., First Member of the Board of Revenue, as Commissioner to hold a formal enquiry ~~into~~ under Act XXXVII of 1850 into the truth of

the following three charges which had been made against the Subjudge:–

(i) that he received an illegal gratification of Rs 1000 from the plaintiff in O.S. No. 26 of 1890 on his file, known as the "Mote maniker case";

(ii) that he caused Bepin Behari Bhose, agent of the defendant in O.S. No 5 of 1893 on his file, to be solicited to give him an illegal gratification in connection with that case; and

(iii) that he received a bribe of Rs. 1000 from M. Lakshmana Das of Chettaparru, on behalf of Somayajula Seshayya of Kowvali, who was the defendant in an appeal before him.

Pending the result of the enquiry ~~M.R.Ry~~ N. Saminatha aiyar was, on the recommendation of the High Court, placed under suspension.

3. The Hon. Mr Crole's report of his enquiry, for the care ~~[illegible]~~ exhibited in which the Govt. now desires to express its acknowledgments was received in June. In it the Commissioner ~~He~~ discusses in detail the evidence for and against the first and third

who was represented at the enquiry by two vakils of the High Court & three other pleaders & put in a written statement of defence in answer

of the three charges set out above (the second charge was withdrawn owing to the impossibility of procuring the attendance of the witnesses connected with it) & ~~expresses the~~ records the finding that both of them are established against the Subjudge. The plea of the Subjudge to the two charges was "not guilty". He ~~attrib~~ stated that the accusations made against him were due to the machinations of the vakils of his court who were irritated by the severity with which he had repressed irregular practices among them & by the fact that he had contributed to the removal of the Court from Ellore to Masulipatam.

4. H.E. the G. in C. has considered with care the evidence in support of the two charges referred to & the plea of the Subjudge in answer to them, & has arrived at the conclusion that there ~~is~~ can be no

...reasonable doubt that ~~the~~ M.R.Ry. N. Saminatha aiyar did in fact raise the illegal gratifications of Rs. 1000 & Rs. 400, respectively, that he is alleged to have received.

5. H.E. in C. cannot permit an officer against whom such charges as these have been established, & who has so flagrantly abused the position of ~~high~~ trust in which he was placed, to remain any longer in the ~~public~~ service of Govt., and ~~Mr.~~ N ~~he~~ Swaminatha Aiyar is accordingly dismissed from the ~~that~~ public service with effect from the date of his suspension.

(from orders.)

6. The Govt. Pleader will be requested to give Govt. his opinion as to whether there is a reasonable chance of ~~success~~ succeeding a prosecution against the witness Rangasami for abetting the offences of which the Subjudge has been found guilty.

[initials] 10.8.26

[initials] 12/8/26

To the Hon. the C.J. with C.L. with 1 S.C. (desp. 5/9)

" " M. C.S. Cole. I.C.S.

" " D.M. Godavari } one S.C. despd 5/9

" " D.M. Kistna

" " Govt. Pleader (~~G.O. of Govt.~~ 3412 & ~~para 6.~~ full order) } Despd with 1 S.C. 5/9

" " Acctt Genl. order only (without para 6.

~~" " ...~~ ~~To B.S. Regan Esq. I.C.S.~~

~~~~ paras 1-5 only. (don't print para. 6.)

Despd 4/9

Don't print

~~My dear Regan~~ ~~You may like~~
~~~~

Ellore Subjudge

(from orders)

No. 1295, JUDICIAL, 13TH AUGUST 1896.

CONFIDENTIAL.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—again the following papers:—

G.O., No. 83, Judicial, dated 14th January 1896.

ABSTRACT.—Directing Mr. W. S. Meyer, I.C.S., Sub-Collector and Joint Magistrate, Gódávari, to hold a preliminary inquiry into certain charges against N. Saminatha Aiyar, late Sub-Judge, Ellore.

G.O., No. 278, Judicial, dated 10th February 1896.

ABSTRACT.—Authorising Mr. W. S. Meyer to proceed on duty to Masulipatam and to remain there for such period as may appear to him to be necessary and permitting him to take one clerk with him.

G.O., No. 450, Judicial, dated 4th March 1896.

ABSTRACT.—Permitting Mr. W. S. Meyer to bring a clerk with him to Madras in connection with the inquiry he is conducting into certain charges against Sub-Judge Saminatha Aiyar.

G.O., No. 603, Judicial, dated 23rd March 1896.

ABSTRACT.—Forwarding to the Honourable the Judges of the High Court report submitted by Mr. Meyer with the request that they will favour Government with their remarks upon it.

G.O., No. 786, Judicial, dated 29th April 1896.

G.O., No. 948, Judicial, dated 4th June 1896.

ABSTRACT.—Informing the Government Pleader that he should use his own discretion as to withdrawing the second charge against N. Saminatha Aiyar, late Sub-Judge, Ellore, namely, that he caused one Bepin Behari Bhose to be solicited to give him an illegal gratification.

G.O., No. 951, Judicial, dated 5th June 1896.

ABSTRACT.—Recording proceedings of the High Court stating that N. Saminatha Aiyar, late Sub-Judge of Ellore, has been placed under suspension with effect from the 1st June 1896.

G.O., No. 1070, Judicial, dated 26th June 1896.

Read—the following paper:—

From the Hon'ble Mr. C. S. CROLE, I.C.S., First Member, Board of Revenue, and Commissioner under Act XXXVII of 1850, to the Chief Secretary to Government, dated Madras, 13th June 1896.

I have the honour to report the execution of the Commission issued to me under section 3, Act XXXVII of 1850, by G.O., No. 786, Judicial, dated 29th April 1896.

2. As the Government expressed a wish that the inquiry should be commenced without delay, I fixed the 20th May for the opening of the Commission. This was the earliest possible date consistent with the observance of the provisions of the Act regarding the service on the accused of notice of the Commission, copy of the articles of charge and lists of documents and witnesses by which the prosecution proposed to sustain the latter. The first hearing had subsequently to be adjourned till the 25th May owing to the illness and death of the daughter of the Government Pleader. I, however, reached Cocanada on the 20th in order to prevent the witnesses from dispersing and to be able to issue summonses for the defence and thus save time. The inquiry actually commenced on the 25th May and concluded on the 6th June. There were eleven sittings in all.

The prosecution was represented by Mr. N. Subramanyam, the Acting Government Pleader, assisted by a vakil of the High Court. For the defence there were the Honourable P. Ananda Charlu and, with him, another High Court vakil and three members of the District Court bars of Gódávari and Kistna.

3. The accused is N. Saminatha Aiyar, who was Subordinate Judge at Ellore, Gódávari district, from 8th January 1894 up to the removal of the Court to Masulipatam in the beginning of January 1896.

4. The formal charges framed by the Government Pleader were three in number. They appear as No. 40 on the list of documents submitted herewith. Shortly stated, they are—

(i) Receiving a bribe of Rs. 1,000 in the "Mote maintenance case."
(ii) Causing one Bepin Behari Bhose to be solicited for a bribe.
(iii) Receiving a bribe of Rs. 400 in the case of one S. Seshayya, an appellant.

5. These charges appear to have originated owing to a petition alleging corruption, which was sent to the High Court by seven pleaders practising before the Sub-Judge. The signatures were subsequently verified by the District Judge, Mr. G. T. Mackenzie, I.C.S. A preliminary inquiry seems to have been made in February 1896 by Mr. W. S. Meyer, I.C.S., the Sub-Collector of Gódávari, under the orders of Government. In the result, the present Commission was appointed for the formal investigation of the three selected cases cited above.

6. The accused Sub-Judge pleaded "not guilty" to all of them, and, at the close of the evidence for prosecution, put in a written statement. It refers specifically to charges (i) and (iii) only, because no evidence was adduced by the prosecution in respect of the second charge, which was, in fact, eventually withdrawn. The Sub-Judge attributes the accusations made against him to the machinations of the vakils, who were irritated by the severity with which he repressed irregular practices and by the removal of the Court from Ellore to Masulipatam in consequence of representations made by him as to the unsuitability of the Court building at Ellore. He likewise categorically denies that he ever received money as set forth in charges (i) and (iii).

7. *Charge* (*i*).—When the accused Sub-Judge assumed charge of the Court in 1894, he found O.S. No. 26 of 1890 among the pending cases. It was a suit which attracted some public interest owing to the wealth and influence of the family concerned. This is known in the district as the "Mote family." It is a rich Komati family. The widow of one of its junior members was the plaintiff. She claimed maintenance at Rs. 100 a month with arrears from 1888 and the use of

a house. M. Venkatasami, the fourth witness for prosecution, as head of the family, conducted the case for all seven defendants. This kind of suit belongs to a class in which a decision may be passed in favour of either party without exciting remark as to the good faith of the judge. As a fact, the Sub-Judge decreed for plaintiff for Rs. 75 per mensem, but disallowed the rest of her claim. I may say here, once for all, that, taken by itself, the record does not show that the manner in which this suit was handled by the Sub-Judge was marked by any impropriety. I dismiss the exception that was taken by the prosecution to an order during execution proceedings as not entitled to much consideration. In appeal, the High Court set aside the decree and mulcted plaintiff in over Rs. 2,000 costs. The "B diary" shows that the Sub-Judge revised the issues on the 17th January 1894, commenced the trial on 31st July, heard the arguments of the pleaders between 29th August and 14th September, and delivered judgment on 26th idem in the terms above described.

8. But, in the meanwhile, the defendant, Venkatasami (fourth witness), had at an early stage of the hearing seen cause, as he says, to doubt the fairness of the Sub-Judge. He appears also to have begun to suspect him of trafficking with one Rangasayi, a distant connection, who was managing the suit for the plaintiff widow. He, therefore, appointed one of his servants, Tuta Seshayya (twelfth witness for prosecution), to watch the house of the Sub-Judge at night. The record shows that a bazaarman (thirteenth witness for prosecution), who seems to be an independent witness, had brought the fact that Rangasayi was seen visiting the Sub-Judge at night to the notice of the fourth witness. This appears to have been early in August, from which date the twelfth witness watched the house in his master's interests, for, as he says, about six weeks. The time was probably not so long. After observing that Rangasayi visited the Sub-Judge every few nights, he saw him come one evening along with another man, who carried a bundle on his shoulder. Rangasayi went through the compound and entered the Sub-Judge's house as usual. In half an hour he returned, and, along with his companion, went to the back door, which was opened by some one from the inside. Rangasayi received his burden from the man who was carrying it and went inside. The man referred to is called in the evidence the "Turpu," or eastern man, and is the eighth witness for prosecution. He confirms the above and states that the bundle was a heavy bag of what he believes to be rupees, which was taken out of a large box in Rangasayi's timber yard and given to him to carry. This man belongs to Ganjám district, but states that at that time he was in the employ of Rangasayi. The latter denies that he was so at the time stated, but defence (exhibit No. XIX) goes to support this witness on that point. I may observe that these two witnesses (8 and 12) were not seriously cross-examined by the defence, a course which is never adopted by an experienced practitioner in respect of damaging evidence except when a witness is telling the truth and cross-examination would only help to bring this out with increased clearness. The two seem to me to be speaking the truth.

9. The above transaction must have occurred in the first few days of September. On the 1st of that month, as is shown by exhibit L, Rangasayi negotiated and obtained for the plaintiff widow a loan of Rs. 1,000 from fifth witness on the pledge of three jewels valued by a goldsmith (sixth witness), who was called in, at Rs. 1,200 or 1,300. Another goldsmith speaks to having made one of them, while Venkatasami (fourth witness) as the head of the family, identifies two of them as the plaintiff widow's property and one as belonging to her son-in-law. She was not called by either side, but there can be no real doubt of the fact. The jewels were made up into a bundle along with a dated chit, giving details of the transaction. This parcel was sealed with the plaintiff widow's seal. It was opened before me in court.

10. While all this was going on, Rangasayi was having some suits conducted by one Gowrinatha Sastri, B.A., a young vakil (tenth witness). The latter asserts that, at repeated interviews, Rangasayi detailed his negotiations with the Sub-Judge and eventually announced that he had actually paid him Rs. 1,000 for the

"Mote" case. In consequence of this knowledge, Gowrinatha Sastri tried to stop a supplemental address to the Sub-Court on the part of the junior vakil for defendants by saying: "Why do you waste your breath? There will be a decree as prayed for." The vakil for the plaintiff widow (ninth witness for prosecution) and the fourth witness for prosecution corroborate this. The former says that the Sub-Judge must have heard the remark if he had been attending to the proceedings. The incident is strong corroboration of the alleged confession. Gowrinatha Sastri subsequently disclosed the particulars to brother vakils when the Sub-Judge's honesty was becoming a matter of general doubt.

11. The eleventh witness is the Honourable N. Subba Rao, the leader of the Rajahmundry bar. He states that a year or so after the above events Rangasayi, who had a suit being heard in the District Court, which he was conducting, confessed to him that he had bribed the Sub-Judge, and, in answer to further questions, gave him details. This witness alleges that the "Mote" case was "almost notorious," so he was curious to get at the truth from Rangasayi himself.

12. Neither in cross-examination nor in any other way has the evidence of these two pleaders been seriously assailed. It may be as well to note at this point, that, whereas Rangasayi denies the first confession, *he will not swear* that he did not tell Subba Rao that he had bribed the Sub-Judge.

13. The defence objected to the reception of this class of evidence at all; but I overruled the objection under section 10 of the Indian Evidence Act on the ground that, when two persons are found to be conspiring together to commit an offence, to wit, the obtaining of a bribe for the Sub-Judge, "anything said *in reference to* their common interest" is a relevant fact both to prove the existence of the conspiracy as well as to prove that any particular person belonged to it. This is no doubt a very important departure from the English law, but it has none the less been the law in India since 1872.

14. The direct evidence regarding the giving of the bribe is sought to be further corroborated by a marked change in the demeanour of Rangasayi, the plaintiff widow, and her brother from some date about twenty days before judgment. Intense anxiety and importunity gave place to an appearance of confidence and indifference as to the result. This is deposed to by the pleader (ninth witness for prosecution) who conducted the case for the plaintiff widow. He says, moreover, that Rangasayi and the others almost ceased to come to him at all although the case had reached the "argument" stage, at which suitors are usually most anxious and excited. The only result of the cross-examination of this witness on the part of the defence was to amplify, and render more suggestive, the statements which he had made.

15. Such is the case for the prosecution. It naturally divides itself into five branches—

(1) The conduct of the maintenance suit by the Sub-Judge.
(2) The raising of a loan for Rs. 1,000.
(3) The giving of that sum to the Sub-Judge.
(4) The effect of that knowledge on the demeanour of the plaintiff widow's party.
(5) The confessions of Rangasayi.

16. The defence consists of a blank denial, of an allegation of conspiracy of vakils against the Sub-Judge, and lastly of an *alibi* for Rangasayi on 1st September, the day on which the loan appears from exhibit I to have been raised.

17. At this point, I take the opportunity of remarking, once for all, on the extreme feebleness and barrenness of the cross-examination of the prosecution witnesses. In more than one instance, their evidence was sensibly strengthened as the result of it. Again, I note with surprise that the alleged conspiracy of vakils has in no way been attempted to be proved directly, while the result of such cross-examination, as there was on the point, goes to support the propriety of the course of action adopted by the vakils in representing, what they had reason to believe to be, the dishonesty of the judge to the proper quarter. The evidence goes no further than that, and on that point I find that the defence has failed.

18. Now as to Rangasayi's *alibi*. This point has been much laboured by the defence as if the whole case depended upon it. I cannot concur in this contention although the incident deserves close examination. When the evidence regarding the loan of Rs. 1,000 to the plaintiff widow through the instrumentality of Rangasayi was being taken, neither side laid any stress upon the exact date and none of the witnesses gave any. A chit, which was as usual unsigned with a view to avoid stamp duty (exhibit L) was sealed up with the jewels and contained a date, namely, 1st September 1894. Rangasayi says that all the people about the Court were talking about the loan in connection with that particular date. This may or may not have been. I entertain some doubt about it. However, Rangasayi states that, upon hearing this date, he sent off to Ellore for his accounts and documents and that they were brought in by special messenger. He then entered into communication with the defence as I gather from the record. When the Government Pleader intimated that he did not intend to call him, although he had entered him on the list of witnesses given to the defence, I was asked to compel him to do so as a matter of fairness to the defence. I declined to make the order, as the Government Pleader alleged that he was not a witness of truth, but, as this witness' name had occurred repeatedly in the evidence for the prosecution and it seemed desirable to hear what he had got to say, I offered to assist the defence by ordering him into the witness-box there and then. A plea of illness on the part of the leading vakil being urged, the examination of this witness was allowed to stand over until the Monday morning following. The interval of two days was utilised in briefing the witness (see his evidence). His documents were taken possession of and filed by the defence, and he became in all but name a full defence witness, with interests, as it turned out, identical with those of the accused Sub-Judge.

19. He belongs to a family of four brothers, originally trading jointly. One appears to have since seceded. The family has, owing to the mania of Rangasayi for litigation, been reduced from comparative affluence to a condition but little removed from want. For instance, when Rangasayi started for Madras on the 24th August 1894 in order to prosecute a petition of review in the High Court of an appeal decision, in which it had confirmed the decrees of both the Courts below, the total ready money of the family in Ellore amounted to Rs. 28 only.

20. His evidence contains blank denials of the various incriminating portions of the evidence of the prosecution. His mind was almost invariably a blank in regard to any fact, by which he thought that his veracity might be tested. There seems to be small use in going over it in detail. The only really important points in it are his attempt to falsify the evidence regarding the loan, which the chit (exhibit L) shows to have been raised on 1st September, and his reluctant admission that he was not prepared to swear that he did not tell the Honourable N. Subba Rao that he had bribed the accused Sub-Judge in the "Mote" case.

21. The extraordinary confirmation of the case for the bribe implied in that admission must necessarily deprive any assault on the loan incident of nearly all its force or interest; but I shall now proceed to examine the evidence for the *alibi*. Rangasayi alleges that he left Ellore with Rs. 28 in his pocket on the 24th August 1894. It was probably two days later. His destination was Madras, and his object to instruct in person the vakil who was to be engaged to argue his hopeless review petition above alluded to. On the way he states that he arranged with his brother-in-law to send by telegraph Rs. 75 from the funds of a branch timber yard which is some half mile distant from Bezwada. This is said to have occurred during the time the train stopped. There seems to be no reason to doubt that Rangasayi went to Madras and arrived about the 28th. It may, likewise, be conceded for the present purpose that he was there up to the 30th and that he hastily returned to Ellore without ever personally instructing Mr. M. O. Parthasaradhi Aiyangar, the advocate, who is said to have been engaged to appear in support of his petition. He assigns "urgent timber trade" as the cause of his abrupt departure and of his abandonment of the sole reason for his long, and, for him, very expensive journey. He gives the date of his departure from Madras as the 5th or 6th September.

22. The exhibits (X and X*a*, XI and XI*a*, XII and XII*a* and XIII), which were at first filed by the defence in support of their case against the loan through this witness, are three letters and a post-card. The Madras postmarks on these are 29th and 31st August and 1st September. It is attempted to extend the latter date up to 6th September by means of the evidence of a second-grade pleader, who was then a mere law tout and needy hanger-on of the needy Rangasayi. I shall deal with his evidence later on.

23. Rangasayi was under examination for portions of three days. On the last day, he filed through the vakil for the defence exhibits XV and XVI. These purport to be a telegraphic money order receipt, dated 30th August, issued at Bezwada for Rs. 75, and Rangasayi's acknowledgment in Madras, which was returned to the sender through the post office at Bezwada, dated 31st August. A curious feature of the case is that every one of these exhibits bears signs of fabrication, except X and XV which are unimportant. Exhibit XVI is also deposed to as fabricated by the postmaster of Cocanada, and it certainly appears on the very face of it to be so. Still the *alibi* appears to be true as far as relates to the 1st September without doubt and possibly up to 2nd idem.

24. A very great deal of time was spent in fighting this subsidiary issue of the presence in or absence of Rangasayi from Ellore on 1st September. From information since received from the Controller of Post Offices, Calcutta, it seems certain that he signed an acknowledgment in Madras on 31st August. He could not therefore have been in Ellore before 2 P.M. on 2nd September. I am likewise inclined to give the defence the benefit of the doubt and to accept the suspicious exhibits XII and XIII, a letter and post-card, as corroborating his statement of absence up to 2 P.M. on 3rd; but his assertion that he did not return until the 6th, 7th or 8th is supported by no evidence whatever except the statements of Chobanadiri, first witness for defence, his needy hanger-on and *factotum*, whose demeanour under examination was not such as to give me the slightest confidence in his evidence. Moreover, Rangasayi himself alleges urgent timber business as having called him back. It is suggestive that he, who evidently keeps every scrap of paper, produces no letter or telegram from Ellore to prove this point, or the extent of his stay in Madras. The truth is that he had very pressing reasons for being in Ellore in the beginning of September in the "Mote maintenance case" and three of his own appeals which were all fast ripening for decision. Two of them, and the "Mote" case, were, as a fact, decided in September.

25. The question arises, what is the effect on the case for the prosecution of the date in the chit which was found in the sealed bag containing the pledge being proved to be wrong? For the defence, it is urged most strongly that this, the only point by the way which they were able to make, shows the whole case under this charge to be false. The prosecution, on the other, argues that the defect in the date on the unsigned chit is quite consistent with the authenticity of the pledge and loan. It is pointed out that the date (1st September 1894) is in English and that no Telugu date is added as is usual. It is suggested that the chit was intentionally antedated at the instance of Rangasayi for the purpose of providing himself with a defence against a prosecution for abetting bribery, or that the gumasta of the money-lender, who wrote it, observed a common practice of avoiding fractions of interest by dating the loan as from the 1st of the month in which it was contracted. Either or both these motives may have inspired the adoption of the date in question. Standing as it does, by itself, and there is nothing else, I do not consider that it affects the truth of the other evidence of the loan.

26. None of the witnesses who bear witness in regard to the transaction has committed himself to this date. They have no discoverable interest in the matter. If the loan were false, the pledge must have been contributed by some one. It consists of jewels belonging to the plaintiff widow and her son-in-law. This is beyond all reasonable doubt. Venkatasami (her opponent) could hardly have obtained them in order to go through a false transaction. Besides that, he has shown no desire to press the case, but rather reluctance. Ramalingam, the sowcar, in the same way seems to be quite independent of Venkatasami. Moreover, how

was he to obtain possession of jewels belonging to the "Mote" family except in the way of pledge as alleged? He has shown no sign of being interested in this case. Last of all we come to the vakils. They are supposed to be at the bottom of the whole concoction, but, irrespective of the difficulty of obtaining "Mote" family jewels, this theory requires us to believe that they would have put any date on the chit which would not bear examination. Two of them (ninth and tenth witnesses for prosecution) were aware of Rangasayi's movements at the time, for they were conducting cases under his instructions, which were fast ripening for decision. They must have been cognisant, moreover, of his frequent absences at Madras and would have paid special attention to the selection of a perfectly safe date. For these reasons, I am unable to connect the incorrectness of the date on the chit with any want of genuineness in the transaction of the pledge and loan.

27. In point of fact, if, as the defence allege, the vakils have had to do with getting up the charge, the probability is that the transaction came to light through the revelations made by Rangasayi himself. It is in evidence that the money-lender at least did not give any information. I am strongly inclined to believe that this was so. I am likewise of opinion that the prompt action which Rangasayi took in sending for documents and accounts immediately the date of the 1st September 1894 came out was caused by his recollection that he had originally fabricated that very date in order to meet a contingency like the present. It was objected by the defence that, if this were so, he would have written the chit (exhibit L) himself; but he is far too cunning a man to commit himself in that way, and the record shows that he does not himself write even a letter when he is able to command the services of an amanuensis.

28. I hold therefore that the pledge and the loan are proved.

29. I am likewise compelled to find that a bribe of Rs. 1,000 was, in fact, paid to the Sub-Judge about the 3rd or 4th of September 1894. Either of these dates would be consonant with the time of the setting of the moon on the night that the money is alleged to have been paid (see evidence of twelfth witness). I am compelled to take this view by the fact that the defence made no serious attempt to demolish the evidence of the eighth, twelfth and thirteenth witnesses by cross-examination or otherwise; that Rangasayi undoubtedly admitted the fact to two separate persons on two distinct occasions, one year apart from each other; and that the demeanour of the plaintiff's party towards the case distinctly altered at or about the time in question.

30. I fully recognised the difficulty of meeting a charge of bribery and made all allowance for it in the latitude I permitted to the defence; but, at the same time, it must not be overlooked that bribery cases are as a rule exceptionally hard of proof. The act takes place in a corner. Corroborative evidence is often impossible to obtain, yet it is present to a somewhat unusual extent in support of the charge now under discussion.

31. The defence had, moreover, a considerable advantage over the prosecution in three respects, which it may not be improper here to mention. In the first place, the order of Government suspending the Sub-Judge from office did not reach Cocanada until the prosecution was closed. This could not fail to have an effect on the minds of native witnesses. Secondly, the Gódávari district is distinctly priest-ridden and the accused is a Brahman. Thirdly, and most important of all, the Sub-Judge had been removed for the past four months to Masulipatam, and the reason which no doubt actuated the bar and the litigants to agitate against his conduct had disappeared along with his power to do them or others further mischief. Hence it came that, in this case, there was no complainant interested in bringing the charge home, to instruct the Government Pleader, who, however, it must be recorded, conducted his case with commendable moderation and ability.

32. These remarks apply with even greater force to charge (*iii*).

33. *Charge* (*ii*).—The Government Pleader towards the end of the case asked permission to withdraw this charge. It had been found impossible to secure the attendance of the two chief witnesses in the case. One is absconding and the other, who resides in Hyderabad, refused to attend; but there is a still more

serious difficulty connected with this charge. The Government Pleader opened that the bribe was solicited from Bepin Behari Bhose, the agent of the defendant in O.S. No. 5 of 1893, by one Subbayyar, the nephew of the Sub-Judge. The latter is alleged to have gone to Bhose and shown him court records in support of his allegations that he collected bribes on the Sub-Judge's account. No one, who has sat for a fortnight on this case, could entertain any doubt of the likelihood of this incident; but it is clear that, even if the Government Pleader were able to fully prove the case set forth in his opening, the charge must fail because there is no evidence to connect the Sub-Judge with the solicitation in the clear and direct manner which could alone be satisfactory and which the law requires. The Sub-Judge may therefore, I submit, be formally acquitted of that charge.

34. *Charge* (*iii*).—In this case a rich widow had obtained a decree against two well-to-do Brahman brothers from the District Munsif of Ellore for Rs. 2,000 and odd. The other brother (second defendant), named Seshayya (fifteenth witness for plaintiff), was exonerated from the suit. The plaintiff widow appealed to the Sub-Judge[A.S. No. 254 of 1893 (exhibit C)*] and one at least of the defendants seemed to have sided with her against Seshayya. They alarmed him by declaring that they were preparing to spend large sums in order to get the decree as regards him reversed. He discovered through one Lakshmana Das (first witness for plaintiff), a Sudra friend, who lives in a village some four miles away from Kovvali, Seshayya's village, that bribes could be given to the Sub-Judge through his servant, "Narayudu," that is, Narayanasami Pillai (second witness for defence). In point of fact, a relative of the plaintiff seems to have been giving out an intention on their part to bribe. This precipitated matters. Lakshmana Das was commissioned to do the needful. He describes various interviews with Narayudu and his failure to get at the Sub-Judge direct. A bargain was eventually struck for Rs. 400. Seshayya borrowed this sum for "court expenses" from the second witness for plaintiff, who is a money-lender of his village. The promissory note then executed was witnessed by third and fourteenth witnesses, cultivators residing near second witness' house, who were called in for the purpose as they passed down the street. The loan is alleged to have been since discharged, so the promissory note is not available; but I can detect nothing in any way suspicious about the evidence of this transaction. The practice in the Gódávari district is that, if a pledge is given, or a document executed, in consideration of money lent, the transaction does not find a place in the money-lender's books. No hostile conclusion is therefore deducible from such a circumstance. The date is given as during the hearing of the appeal by the Sub-Judge, but cannot be more accurately identified. The persons engaged in the transaction under notice are not all of the same caste or village and they do not seem to be mixed up with parties in Ellore. The cross-examination by the defence vakil elicited nothing at all compromising.

* No. 5 on list of documents.

35. Seshayya and Lakshmana Das set off to the Sub-Judge's house with the Rs. 400 and arrived there at 6 o'clock in the evening apparently. Lakshmana Das went to the front door† of the house and was ordered by Narayudu to go round to the backyard door. Admitted through it, he was taken to a verandah attached to the dining room, in which he states that he found the Sub-Judge seated on a chair. This is how the witness describes what took place: "I and Seshayya went to the back door.‡ Narayudu opened it and I went in with the bag of rupees, leaving Seshayya at the door. I took the money from him there. Narayudu had told Seshayya not to go inside. The Sub-Judge was sitting on a chair in a verandah.§ I placed the bag on a pial on which the Sub-Judge's chair was. I placed it close to the chair. The Sub-Judge asked me 'How much.' I said '400.' I asked him to support Seshayya. He said, 'No matter, go.' I further told him that I also had cases, and that he should favour me. He said, 'I shall see.' I went away by the back gate, leaving the money beside the Sub-Judge. I found Seshayya in the place where I had left him."

† *N.B.*—Marked with a red cross on the plan.

‡ *N.B.*—Marked with two red crosses on the plan.

§ *N.B.*—Marked with three red crosses on the plan.

36. I have quoted this passage at length because the witness' account of the same has been denounced as a palpable concoction by the defence. On the contrary it appears to me a simple and a natural story devoid of exaggeration. Narayudu (second witness for defence) denies that anything of the sort ever took place. That was to be expected. He is a Tinnevelly man, who has been the Sub-Judge's "dressing boy" for fifteen years and has accompanied his master to his appointments in seven districts. In Salem, he obtained the office of court-keeper, which he relinquished when the Sub-Judge was transferred to Cocanada.

37. He supports the defence in asserting that no Sudras could ever come to the place indicated, which is the place where the grinding stone and water is kept, and adjoins the dining, worshipping, and cook rooms. On the other hand, it is in evidence that there were two Sudra concubines and a child living with the Sub-Judge, and it is extremely unlikely that in such an establishment caste restrictions were really observed to the extent claimed. The house is upper-storied and the tiled building referred to is connected with it by a short covered way. It is likewise easily accessible from the back door. It was therefore exactly the place which would be chosen for transactions requiring secrecy and seclusion. It is, moreover, obvious that, supposing the Sub-Judge to be capable in his lust for gain of betraying his trust and defying the Penal Code, he is hardly likely to have thought much about caste observances.

38. The only discrepancy in the evidence of first and fourteenth witnesses is that, whereas the former says that the latter was left in a position from which he could observe what took place in the verandah, the latter gives a different spot as that at which he awaited the reappearance of first witness. This does not bear out the theory of concoction urged by the defence, but is a variation which rather favours the conclusion that the witnesses were giving their own independent recollections of what took place.

39. Then the fifteenth was a most extraordinarily unwilling witness. The Sub-Judge had confirmed the decree of the munsif, but had deprived him of his cost. The High Court restored these to him in appeal. Whether he was actuated by the fear that he would imperil the success obtained in the action by confessing to having paid a bribe, or what other motive dictated his conduct, does not appear. Certain it is that, for many months past, he has been feigning sickness and pretending that he had lost power in his limbs, and that any attempt to move him from his bed induced dangerous convulsions. Mr. Meyer was, on this account, unable to examine him, and it was only after I issued a warrant for his being brought before me in custody that he appeared, the civil apothecary having certified that there was nothing the matter with him. There was clearly no opportunity or reason for the collusion insinuated by the defence, and, when this witness came into Court, the Government Pleader could have had only the most general idea of what evidence he was likely to give. Under the circumstances, therefore, the close correspondence of his evidence with that of the other witness is evidence of the very strongest character of the truth of the third charge against the Sub-Judge.

14th August 1894.

40. As in the first charge, so in this, the appeal judgment of the Sub-Judge throws no light upon the case. At first sight it might appear that the order depriving Seshayya of his costs shows that the decision was passed with impartiality; but, on the other hand, it should not be forgotten that it was almost absolutely certain that the case would be taken to the High Court, where any mistake in the exercise of the discretion vested in the lower Appellate Court would certainly be corrected at no extra expense to Seshayya, who would require to enter an appearance in any event. This is precisely what happened. No inference either for or against the charge can therefore safely be drawn from the manner in which the case was dealt with by the Sub-Judge.

41. Taken by itself, this charge might not lead to a conviction in a Criminal Court. However probable and consistent the story, the accused Sub-Judge would

be entitled to the benefit of the element of doubt, which would legally arise as to the probative force attributable to the direct evidence of the first witness, the only eye-witness, when weighed against the denial of the accused and the contradiction given to the first witness by the accused's servant; but, for the purposes of this report, the circumstances of this case may not unfairly be associated with those disclosed by the evidence under the first charge. The witnesses have, moreover, shown no hostility to the Sub-Judge. There is an almost entire absence of any conceivable motive for making a false charge. On the contrary, positive unwillingness to give evidence has been exhibited. My finding is that the accused Sub-Judge did, as a fact, receive an illegal gratification of Rs. 400 from Somayajulu Seshayya through Lakshmana Das as charged.

Order—No. 1070, Judicial, dated 26th June 1896.

The Honourable Mr. Crole's report will be forwarded to the Honourable the Judges of the High Court with the request that they will be good enough to favour Government with their opinion on the matter.

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

To the Honourable the Chief Justice, with C.L.
and with report and its 63 enclosures.

G.O., No. 1134, Judicial, dated 8th July 1896.

Abstract.—Declining to furnish Sub-Judge Saminatha Aiyar with copies of the evidence given before Mr. Meyer by certain witnesses.

G.O., No. 1198, Judicial, dated 20th July 1896.

Read—the following paper:—

From D. W. G. COWIE, Esq., Registrar of the High Court of Judicature, to the Chief Secretary to Government, dated Madras, 15th July 1896, Dis. No. 69.

With reference to G.O., No. 1070, Judicial, dated 26th June 1896, requesting the Honourable the Judges of the High Court to be good enough to favour Government with their opinion on the Honourable Mr. Crole's report of his inquiry into the charges against Sub-Judge N. Saminatha Aiyar, Avargal, I am directed to state that the Honourable the Judges have read Mr. Crole's report, but, in view of the possibility of the matter coming before them judicially at some future stage, they consider it undesirable to express any opinion upon the evidence.

2. The records of the inquiry are herewith returned.

Order—No. 1198, Judicial, dated 20th July 1896.

The Honourable Mr. Crole's report will now be forwarded to the Government Pleader, who will, after consulting the Advocate-General, favour Government with his opinion as to whether there are sufficient grounds for instituting a criminal prosecution against the Sub-Judge on either of the two charges referred to therein.

(True Extract.)

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

To the Government Pleader.

Read—also the following paper:—

From N. SUBRAHMANYAM, Esq., Acting Government Pleader, to the Chief Secretary to Government, dated Madras, July 1896.

I have the honour to acknowledge the receipt of the order of Government, No. 1198 of the 20th instant, together with the enclosures.

2. I have had a long consultation with the Advocate-General on the question on which my opinion has been asked and we have discussed in detail the evidence in support of each of the charges.

3. We are both of opinion that there are not sufficient grounds for instituting a criminal prosecution against the Sub-Judge on either of the charges.

4. The Honourable Mr. Crole's report is enclosed and the other records are sent by parcel post.

Order—No. 1295, Judicial, dated 13th August 1896.

In January of the present year Mr. W. S. Meyer, I.C.S., then Sub-Collector and Joint Magistrate of Gódávari, was directed, at the request of the Honourable the Judges of the High Court, to conduct a preliminary investigation into certain charges of receiving illegal gratifications which had been preferred against N. Saminatha Aiyar when Sub-Judge of Ellore by some of the pleaders of his own Court.

2. Mr. Meyer submitted to Government in March a voluminous and careful report of his investigation, and, upon a consideration of the evidence recorded by him and after consultation with the Honourable the Judges upon the matter, the Government in G.O., No. 786, Judicial, dated 29th April 1896, appointed the Honourable Mr. C. S. Crole, I.C.S., First Member of the Board of Revenue, as Commissioner to hold a formal inquiry under Act XXXVII of 1850 into the truth of the following three charges which had been made against the Sub-Judge:—

(i) that he received an illegal gratification of Rs. 1,000 from the plaintiff in O.S. No. 26 of 1890 on his file, known as the "Mote maintenance case";

(ii) that he caused Bepin Behari Bhose, agent of the defendant in O.S. No. 5 of 1893 on his file, to be solicited to give him an illegal gratification in connection with that case; and

(iii) that he received a bribe of Rs. 400 from M. Lakshmana Das, of Chettaparru, on behalf of Somayajulu Seshayya, of Kovvali, who was the defendant in an appeal before him.

Pending the result of the inquiry N. Saminatha Aiyar was, on the recommendation of the High Court, placed under suspension.

3. The Honourable Mr. Crole's report of his inquiry, for the care exhibited in which the Government now desires to express its acknowledgments, was received in June. In it the Commissioner discusses in detail the evidence for and against the first and third of the three charges set out above (the second charge was withdrawn owing to the impossibility of procuring the attendance of the witnesses connected with it) and records the finding that both of them are established against the Sub-Judge. The plea of the Sub-Judge, who was represented at the inquiry by two vakils of the High Court and three other pleaders and put in a written statement of defence in answer to the two charges, was "not guilty." He stated that the accusations made against him were due to the machinations of the vakils of his Court who were irritated by the severity with which he had repressed irregular practices among them and by the fact that he had contributed to the removal of the Court from Ellore to Masulipatam.

4. His Excellency the Governor in Council has considered with care the evidence in support of the two charges referred to and the plea of the Sub-Judge in answer to them and has arrived at the conclusion that there can be no reasonable

doubt that N. Saminatha Aiyar did in fact receive the illegal gratifications of Rs. 1,000 and Rs. 400, respectively, that he is alleged to have received.

5. His Excellency in Council cannot permit an officer against whom such charges as these have been established and who has so flagrantly abused the position of trust in which he was placed to remain any longer in the service of Government, and N. Saminatha Aiyar is accordingly dismissed from the public service with effect from the date of his suspension.

6. The Government Pleader will be requested to give Government his opinion as to whether there is a reasonable chance of a prosecution succeeding against the witness Rangasayi for abetting the offences of which the Sub-Judge has been found guilty.

(True Extract.)

J. F. PRICE,
Chief Secretary.

To the Government Pleader.

* * *

Govt. of {1896} Madras.

JUDICIAL.

CONFIDENTIAL.

Issued.

Read. *Encl.*

G.O., No. 1295, 13th August 1896.

AUGUST.

N. Saminatha Aiyar.

Directing, for reasons stated, the removal from the public service of —, late Sub-Judge of Ellore.

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