Sectt. M-48—33,702—27-11-23.

Subhi (1884 / ~~192~~) Department.

Original SERIES.

Desp
G.O. No. 24

DATED 15-10-1884

Contd

[Despatch Abstract.]

Re Lieut. L. Atkinson.

BACK PAPERS.

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

FURTHER PAPERS.

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

been too severe a penalty for such misconduct.

Mr Brooks Atkinson having run for the second time transgressed the rules of the service in that he accepted the warning conveyed to him in the year 1877 would seem to have made little or no impression on him and in these circumstances we feel that we have no alternative but to recommend to your Lp that Mr Brooks Atkinson shd be dismissed from the public service

E. F. Lw
12/9/84

Rotacanna
15 October 1884

3

ACK

te.

E

e.

51

gth article of the Charge
as what has already been
written will no doubt
be considered amply
sufficient to dispose
of Mr Brooks Atkinson
assertion that he was
not indebted except
to shop keepers and
for house rent.
In submitting this
powerful case for your
Ld Ships orders we feel
it right that your Ld
Ships attention should
be invited to your pre=
decessors despatch
No 14 of 4th July 1872 (Public)
which was communicated
Mr Brooks Atkinson
d in which that
cer's transgression
n very strictly and
lesome rule against
orrowing money &c &c
within the district in whi
he was employed was
severely animadverted
on with the intimate
that removal from
service would not

Mr Brooks Atkinson
remitted six drawn
letters every one of the
nine notes received by
him from the manager
of this Matt.
The defence consisted of a
flat denial of the whole
story and a statement
that the currency notes
~~was exchanged~~ were
received by him in exchange
for cash ~~received~~ sent by ~~sent~~
a mysterious friend
whose name & place of
residence he declined
to mention. If however
Mr Brooks Atkinson
had come into possession
of these notes from a
legitimate source this
could easily have been
proved & clearly it was
of vital importance to
Atkinson that he sh
prove it and the absence
of the slightest attempt
on his part to do so after
the very stringent presumption
that against the truth
of his assertion

It seems scarcely necessary
to trouble your Ld Ship
with any remarks on the

41

request he sent two
servants of the Matt
(named Srinivassa
Aiyengar and Tammaiah
Aiyengar) to the Govt
Taluq Treasury with
instructions to change
500 Rs cash into nine
currency notes of 100 Rs
each and that he
handed these notes to
another from his private
cash chest by Mr Brooks
Atkinson. This story
is corroborated by
entries of the transaction
in the account books
of the Matt and also
by the records of the
Taluq Treasury office
which show that on
the 1st July 1884 nine
notes of 100 Rs each were
issued to persons
bearing the same names
as the servants of the
Matt mentioned above
It further appears
from the records of the
Post office that on
the 15th & 16th July 1884

Excitement among the
Brahmans of the village
many of whom appear
to have visited Mr Brooks
Atkinson very shortly
after the death of his father
but with what
particular object is not
clearly to be gathered from
the papers. This was
the position of affairs
when, on the 31st January 1884
Mr Brooks Atkinson
arrived at Nanjanguri
and the charge against
him is that on the afternoon
of this same
day he obtained from
the manager of the Matt
a large sum of money
either as a gift or loan

The direct evidence
on this point consists of
the account of the transaction
given by the manager of
the Matt who says that
on the 1st July 1884 Mr Brooks
Atkinson asked him
for the sum of 1000 Rupees
in currency notes, that
in compliance with this

Letter to the Right Honorable
the Secretary of State for India,
Dated
No. of 188 .

prosecution. It will be observed that Mr O'Sullivan is of opinion that his case was not sufficiently strong to the placed before a jury with a reasonable prospect of success.

The facts of the case are briefly as follows:—

The fir or head of a religious institution in Tangueri a village in the Tinnevelly District died very suddenly under suspicious circumstances on the 24th March 1883. The local Magistrate requested the Assistant of the district (Mr Brooks Atkinson) to direct the District Surgeon to make a post mortem examination of the body but this was not done & no certificate as to the cause of death is to be found. The Head Assistant (Mr Brooks Atkinson) urges that he was not aware that the leader of the money was a resident in the Tinnevelly District. It has been clearly shewn however that Arumachellam Chetty has resided & carried on business in Tinnevelly for the last twenty five years and it is difficult to believe Mr Brooks Atkinson's assurance that he was ignorant of the fact but, be this as it may, it was most certainly his plain duty to satisfy himself on this point before negotiating a pecuniary transaction of this kind—

The seventh is the gravest article of the Charge, indeed so serious did the circumstances appear to be that we resolved to consult the Advocate General as to whether the facts were in his opinion sufficient to sustain a criminal

his arrival in the District
We see no reason whatever
for doubting the truth-
fulness of this Jemadar
evidence which is
corroborated by entries
of the transaction in his
memoranda of accounts.
and indeed more
probable by the fact,
which Mr Brooke Atkinson
leaves unexplained, that
during the months of July
1883 when the transaction
is said to have taken place
Mr Brooke Atkinson
transmitted through the
Post Office 4096-4-0 in
excess of his full amt.
of salary drawn by him
for that months.
The sixth article charges
Mr Brooke Atkinson
with having borrowed
in the town of Tinnevelly
5000 Rupees from one
Annachellum Chetty
on the 14th June 1884
The fact of the money having
been borrowed is admitted

divided into eight articles
of charge in seven of which
this officer is charged with
having on several occasions
borrowed money from
natives residing in his
district ~~and thereby~~
in contravention of strict
standing orders to the
contrary while in the
eighth article he is
charged with having
falsely reported to Mr
Austin (the officer deputed
by Govt to inquire into the
conduct of Mr Brooke
Atkinson) that he owed
no money in his district
except to shop keepers and
for one months rent.
To the 3rd 4th & 5th articles
Mr Brooke Atkinson
pleaded guilty and
to the remaining articles
not guilty. The oral
evidence adduced in the
first and second articles
consisted of a statement
by the Municipal Comr
for the town of Palamcottah
in the Tinnevelly District
who deposed to having at
Mr B Atkinsons request
advanced him the sums
of 2000 Rupees shortly after

Wt copy &c —
(1) Commissn Report
(2) Mr Justice's Report
(3) Proceedings Judgment Public

Despatch with Enclosures 15/10/84

DEPARTMENT.

No. 24 of 1884.

To

The Right Honorable

The Secretary of State for India.

Note for Press - Public
in Breeks-Atkinson
two cont
Yes
FW

MY LORD,

In our despatch N° 11. D/12th July 1884 we informed your L^d^ship that we had deemed it to be our duty to suspend Mr Breeks Atkinson the Acting Collr of Tinnevelly from his duties and to appoint a public Commission of inquiry under Act XXXVII of 1850 to investigate certain charges gravely affecting this officer's character as a public servant.

We have now the honour to transmit for your L^d^ship's consideration and final orders a copy of the Commrs report together with the papers noted in the margin

2/ Your L^d^ship will observe that the charge against Mr Breeks Atkinson is

Mr Justice's report
Ad. Genl opinion.

print the appendix
and charts
FW

FORT SAINT GEORGE.

PUBLIC (1884) *DEPARTMENT.*

LETTER to the Right Honorable the Secretary of State for India.

Dated September,

No. of 1884.

Transmitting, for consideration and final orders, a copy of the report of the Commission of Inquiry appointed under Act XXXVII of 1850 to investigate certain charges gravely affecting the character of Mr. Breeks Atkinson, of the Madras Civil Service, as a public servant, and recommending that he be dismissed from the service.

5. In submitting this painful case for your Lordship's orders, we feel it right that your Lordship's attention should be invited to your predecessor's despatch, No. 14, dated 4th July 1872 (Public), which was communicated to Mr. Breeks Atkinson, and in which that officer's transgression of the very strict and wholesome rule against borrowing money within the district in which he was employed was severely animadverted on with the intimation that removal from the service would not have been too severe a penalty for such misconduct.

Mr. Breeks Atkinson having now for the second time transgressed the rules of the service, the warning conveyed to him in the year 1872 would seem to have made little or no impression on him, and in these circumstances we feel that we have no alternative but to recommend to your Lordship that Mr. Breeks Atkinson should be dismissed from the public service.

We have the honor to be,
My Lord,
Your Lordship's most obedient, humble servants,

(Signed) M. E. GRANT DUFF.
(,,) FRED. ROBERTS.
(,,) H. E. SULLIVAN.
(,,) C. G. MASTER.

OOTACAMUND,
September 1884.

Exd. J. W. Fischer.

ignorant of the fact; but, be this as it may, it was most certainly his plain duty to satisfy himself on the point before negotiating a pecuniary transaction of this kind.

3. The seventh is the gravest article of the charge; indeed so serious did the circumstances appear to us to be that we resolved to consult the Advocate-General as to whether the facts were in his opinion sufficient to sustain a criminal prosecution. It will be observed that Mr. O'Sullivan is of opinion that the case is not sufficiently strong to be placed before a jury with a reasonable prospect of success.

The facts of the case are briefly as follow:—

The *Jir* or head of a religious institution in Nángunéri, a village in the Tinnevelly District, died very suddenly under suspicious circumstances on the 24th December 1883. The local Magistrate at once requested the Magistrate of the District (Mr. Breeks Atkinson) to direct the District Surgeon to make a *post mortem* examination of the body, but this was not done, and no certificate as to the cause of death is to be found. The event seems to have caused some excitement among the Brahmans of the village, many of whom appear to have visited Mr. Breeks Atkinson very shortly after the death of the *Jir*, but with what particular object is not clearly to be gathered from the papers. This was the position of affairs when, on the 31st January 1884, Mr. Breeks Atkinson arrived at Nángunéri, and the charge against him is that on the day after his arrival he obtained from the manager of the *Matt* a large sum of money either as a gift or loan.

The direct evidence on this point consists of the account of the transaction given by the manager of the Matt, who says that on the 1st February 1884 Mr. Breeks Atkinson asked him for the sum of Rs. 1,000 in currency notes; that, in compliance with this request, he sent two servants of the Matt (named Srinívassa Aiyengar and Vannamalai Aiyengar) to the Government taluk treasury with instructions to change Rs. 900 cash into nine currency notes of Rs. 100 each, and that he handed these notes and another from his private cash chest to Mr. Breeks Atkinson. This story is corroborated by entries of the transaction in the account-books of the Matt and also by the records of the taluk treasury office, which show that on the 1st February 1884 nine notes of Rs. 100 each were issued to persons bearing the same names as the servants of the Matt mentioned above. It further appears, from the records of the post office, that on the 15th and 16th February 1884 Mr. Breeks Atkinson remitted in insured letters every one of the nine notes received by him from the manager of the Matt.

The defence consisted of a flat denial of the whole story and of a statement that the currency notes were received by him in exchange for cash sent by a mysterious friend, whose name and place of residence he declined to mention. If, however, Mr. Breeks Atkinson had come into possession of these notes from a legitimate source, this could easily have been proved, and clearly it was of vital importance to Mr. Breeks Atkinson that he should prove it, and the absence of the slightest attempt on his part to do so affords the very strongest presumption against the truth of his assertion.

4. It seems to us unnecessary to trouble your Lordship with any remarks on the eighth article of the charge, as what has already been written will, no doubt, be considered amply sufficient to dispose of Mr. Breeks Atkinson's assertion that he was not indebted except to shop-keepers and for house-rent.

PUBLIC DEPARTMENT.

LETTER—to

THE RIGHT HONORABLE THE SECRETARY OF STATE FOR INDIA.

MY LORD,

In our despatch, No. 11, dated 2nd July 1884, we informed your Lordship that we had deemed it to be our duty to suspend Mr. Breeks Atkinson, the Acting Collector of Tinnevelly, from his duties and to appoint a public Commission of Inquiry under Act XXXVII of 1850 to investigate certain charges gravely affecting this officer's character as a public servant.

We have now the ~~honor~~ to transmit, for your Lordship's consideration and final orders, a copy of the Commission's report together with the papers noted in the margin.

Mr. Garstin's report.
Advocate-General's opinion.

2. Your Lordship will observe that the charge against Mr. Breeks Atkinson is divided into eight articles, in seven of which this officer is charged with having on several occasions borrowed money from natives residing in his district in contravention of strict standing orders to the contrary, while in the eighth article he is charged with having falsely reported to Mr. Garstin (the officer deputed by Government to inquire into the conduct of Mr. Breeks Atkinson) that he owed no money in his district except to shop-keepers and for one month's rent.

To the third, fourth, and fifth articles Mr. Breeks Atkinson pleaded *guilty* and to the remaining articles *not guilty*. The oral evidence adduced in the first and second articles consisted of a statement by a Municipal Commissioner for the town of Palamcottah in the Tinnevelly District, who deposed to having, at Mr. Breeks Atkinson's request, advanced him the sum of Rs. 2,000 very shortly after his arrival in the district. We see no reason whatever for doubting the truthfulness of this person's evidence, which is corroborated by entries of the transaction in his memoranda of accounts, and rendered more probable by the fact, which Mr. Breeks Atkinson leaves unexplained, that during the month of July 1883, when this transaction is said to have taken place, Mr. Breeks Atkinson transmitted through the post office Rs. 4,096-4-0 in excess of the full amount of salary drawn by him for that month.

The sixth article charges Mr. Breeks Atkinson with having borrowed in the town of Tinnevelly Rs. 5,000 from one Arunachellam Chetty on the 14th January 1884. The fact of the money having been borrowed is admitted, but Mr. Breeks Atkinson urges that he was not aware that the lender of ~~the money~~ was a resident in the Tinnevelly District. It has been clearly shown, however, that Arunachellam Chetty has resided and carried on business in Tinnevelly for the last twenty-five years, and it is difficult to believe Mr. Breeks Atkinson's assurance that he was

11. It is, in the nature of things, as the law stands, difficult to procure reliable evidence in such cases, for all persons who take part in giving gratifications to public servants are themselves guilty of an offence, and their evidence will be treated accordingly. If the law were that the receiver only, and not the giver, were liable to punishment, this would facilitate proof, but would probably lead to results as little to be approved of as the present state of things.

P. Sullivan
Advocate General.

The 29th August 1884.

have to try.

9. I think a loan of money to a public Servant may, in some circumstances, amount to the giving and receiving an illegal gratification. But this is not the case in respect of any of the charges preferred before Colonel Weldon, for the evidence shows that a substantial sum by way of interest was paid or promised. In the case of Sadagopa Iyengar, the interest promised was 12 per cent per annum. In the enquiry before Colonel Weldon, it was not necessary to determine whether the money was paid by way of loan or gift, and Colonel Weldon left the point undetermined. In a criminal prosecution, it would be necessary to prove that it was by way of gift, whereas the evidence for the prosecution would show it was by way of loan. I think the Judge, upon Sadagopa Iyengar's evidence, would direct an acquittal.

the conclusion of the Court were that the transaction amounted to a gift then Sadagopa Iyengar would be a tainted witness, whose evidence would require to be corroborated upon some material point affecting the guilt of the accused, unless indeed the further extraordinary conclusion were come to that, though it was a gift Sadagopa Iyengar (notwithstanding the entry in the account) thought it was a loan! If he thought it was a gift, he would not only be a tainted witness, but a witness who has given false evidence with reference to this very transaction. There would, no doubt, in that case, be the evidence derived from the possession by Mr Atkinson on the 15th and 16th February 1884, of the nine notes obtained from the Taluq Treasury on the 2nd February, but, upon the evidence as it stands, I do not think this circumstance would be material upon the charge which a Criminal Court would

was a gift, but he could not be expected to criminate himself, for if it were a gift he had given it. This, I think, is probably the right view of the case; but the entry in the account, without Sadagopa Iyengar's evidence, will not be sufficient to prove the true case: and Sadagopa Iyengar's evidence, so far from supporting the entry, would show that the entry was not in accordance with the facts as they occurred. If it were a gift, how is the evidence of Sadagopa Iyengar, herein before quoted, to be reconciled with the fact that it was a gift? If he has invented the conversation as to the Promissory Note and interest, how could any Criminal Court rely upon his evidence? The entry does not mention Mr. Atkinson's name, and if it did it would, of itself, not be sufficient proof in point of law, that Mr Atkinson received it as a gift or loan. If

the whole aspect of the case. The difference between a loan and a gift, in the case of a criminal prosecution, would be all important. Nor is Sadagopa Iyengar's explanation why the entry in the account was made at all satisfactory. The entry was made under the direction of Sadagopa Iyengar himself. He says that when he reported the transaction to the Jir, the Jir ordered it to be entered as a gift. It is not likely that the Jir would have directed such an entry to be made if Sadagopa Iyengar had represented the transaction to him as Sadagopa Iyengar now represents it. If the Jir, through perversity or for any other reason, chose to direct the entry to be made as it now appears, it does not represent the truth of the case according to Sadagopa Iyengar, the only person, besides Mr. Atkinson, (so far as appears) who knows what the truth is.

8. It may be said that Sadagopa Iyengar knew that the transaction

fact that the notes are traced to Mr. Atkinson's possession would have no significance in a criminal prosecution supported by the evidence of Sadagopa Iyengar. It may be suggested that Mr. Atkinson intended to cheat, for he did not intend to repay the money, of which his refusal to give a promissory Note would be some evidence. As to this, it appears that he has never been asked for repayment. But he has denied the loan! This he did also in other instances where he thought there would be difficulty in the proof, because to admit the loan was against his official interest at all events.

7. The Mutt accounts are produced to corroborate Sadagopah Iyengar, and they contain the following entry. "1st Feb: 1802, expended on account of gift, Rs 1000" The payment was on the 2nd February. The entry, which is not admissible as independent but only as corroborative evidence, so far from corroborating, alters

he understood on the 1st an 2nd February (when the money was asked for by, and paid to, Mr Atkinson) it was to be a loan. He says, when he paid the money: "I asked Mr Atkinson for a promissory "Note: he said he would repay the money "on the next day. I did ask for interest. "Mr Atkinson said he would pay principal "and interest in one month. Interest fixed "was 1 per cent per monsem. He further says that no application was made by him afterwards for repayment. It does not appear whether the conversation as to payment of principal and interest took place after Sadagopa Iyengar had given the notes to Mr Atkinson or before it; but it would appear that when the loan was asked for, on the 1st February, nothing was said about repayment or interest.

6. As this witness represents the transaction there was nothing in it culpable, not to say criminal, in his part, nor criminal on the part of Mr Atkinson, and the leaving upon our minds a reasonable doubt.

5. In case a Criminal prosecution is commenced, I think it would be sufficient if proved that Sadagopa Iyengar, the Agent of the Mutt, had received 900 Rupees, in Currency notes of Rs 100 each, from the Nanganeri Taluq Treasury on the 2nd February, 1884, in exchange for Cash, although an unusual course was adopted at the Treasury in requiring the persons to whom the money was paid to sign the record, and no satisfactory explanation is given why this unusual course was taken. Sadagopa Iyengar says he gave Mr Atkinson the same nine notes which his Agents received from the Treasury and another note for Rs 100, making in all Rs 1000, on the evening of the 2nd February, 1884, in the Travellers Bungalow at Nanganeri. Sadagopah Iyengar wishes to make it appear that

the moral effect of the conclusions arrived at by Colonel Weldon; upon this and the other charges, would be impaired, and it may turn out that the Official Superiors of Mr. Atkinson may not feel themselves justified in dealing with Mr. Atkinson as they may think he deserves, and as they may feel disposed to do, if the verdict of the Jury were out of the way.

4. The conclusions of the Jury and of Colonel Weldon may well stand together, even if diverse, apparently for Colonel Weldon was at liberty to draw inferences from facts before him, some of which perhaps would not be in evidence before the Jury. Colonel Weldon was also justified in drawing inferences from the failure to explain matters which required explanation upon the Inquiry before him, but a Jury may not be prepared to do the same to the same extent and may say. The prosecution must prove the case without

2. It is of course expedient that persons holding official positions, reasonably suspected of corruption, upon sufficient proof, should be made amenable to the criminal law; but, on the other hand, a prosecution which ends in a verdict of not guilty is not calculated to restrain corruption but rather to promote it, for it would show with greater clearness, the difficulty of adducing proof, sufficient to secure conviction.

3. In this case it has been established to Colonel Weldon's satisfaction, upon sufficient proof in an inquiry of this kind, that Mr. Atkinson has received 1000 Rupees, whether by way of gift or loan, under circumstances discreditable to Mr. Atkinson. His official Superiors can now deal with him upon this charge, as well as the other charges preferred. But if this case is submitted to a Criminal Court, and the result should be a verdict of not guilty, as I expect,

Confidential

Opinion.

I have carefully read the report of Colonel Weldon upon Mr. Breeks Atkinsons case and the evidence taken by Colonel Weldon. The facts elicited before Colonel Weldon are substantially the same as those elicited by Mr. Garstin as to the payment to Mr. Breeks Atkinson of Rs. 1000, on the 2nd of February 1884, at Nanganeri, by Sadagopa Iyengar, the Agent of the Jiyr or Head of the Mutt, at Nanganeri, in the Tinnevelly District. This is the only case upon which, in my opinion, a criminal prosecution against Mr. Atkinson could be at all sustained. The trial of Mr. Atkinson would take place before a Jury in the High Court. I do not think there would be sufficient evidence in point of law to warrant a verdict of guilty if the Jury believed it. Whether the Jury would be likely to believe it or not is a point upon which I cannot write confidently.

GHIEF SECRETARY 3 SEP 04 GOVERNMENT OF MADRAS

Mr Breeks Atk.

FOR ORDERS.

represent any confidence in him & therefore his retention in the service is out of the question.

5/9 H.L.S.

We have absolutely no choice. We should be open to the gravest animadversion from the Sec. of State if we suggested any less severe penalty. Mr Breeks Atkinson's remaining in the Service seems to me quite out of the question.

MM

Sept 6/04.

I concur

Pb.

7/9/04

:self on the mercy of Govt
and promised good
behaviour for the future
a less severe penalty
might have met the
case – But the man-
:ner of his defence has
greatly aggravated his
mis-conduct and
the information elicited
shows not only that
he borrowed money
within his pecuniary
right but leads
us doubt in my mind
that he took presents
although the evidence
is legally insufficient
to convict him on a
criminal charge.
There can be no doubt
that he lied unblushingly
when questioned as
to his pecuniary transac-
:tions and it is equally
clear that he was ed
lost to all shame
& decency as to use
his native servants
public & private to obtain
douceurs for him-
In such circumstances
it is impossible that
Govt could overjoin

Report of W. Atkinson's
removal from the Ser-
:vice & meet the case
and that our recommen-
:dation & the Secretary of
State should take this
form. As observed by him
the penalty is a very heavy
one – It means not only
absolute ruin to him-
:self but to the members
of his family, for it carries
with it the forfeiture not
only of his own pension
but of the benefits of the
Civil Fund & which in
their circumstances they
must have succeeded at
his death – Their fate is
sad beyond measure
but it is not within our
power to mitigate its
severity – at least
I do not see my way –
If he had merely
infringed the rules of
the service by borrowing
money to meet some
pressing emergency
had frankly acknowledged
his error, shown him-
self

Public Department.

No. 3049 A.

From

The Advocate General.
29 August 1884

FOR ORDERS.

The opinion of the Advocate General being adverse to institution of any criminal proceedings against Mr Brooke Atkinson it only remains to report the case to the Secretary of State.

I have already in previous note indicated what in my opinion should be the nature of the recommendation to be made in our despatch

C/ll
11/9/84

In his previous note my Hon^ble Colleague recorded his opinion that nothing

Madras 29th Aug 84.

CHIEF SECRETARY
3 SEP 84
GOVERNMENT OF MADRAS

My dear Webster

I send for what I have written re Allinson

I have not returned Weldon's Report as some further references may be made to me, but I shall of Course send it if You Wish

Yours very Sincerely

P Sullivan

Code or in any - - ter chap - - of the Code, or - - ore contained in 13 Geo - C. 63. 55 23 & 25 and - - III ch 52. s 62, and general - - t say whether you - - of opinion that a crimi - l prosecution against Mr Brooks Allinson could be maintained.

Yrs sincerely

By Forster Webster

Thurston P. O'Sullivan Esq
Advocate
with copy of Mins

Despd 26/8/84

Government office
Ootacamund
26th Augt 1884.

My dear O'Sullivan,

I am to forward to you the record of Proceedings under Act XXXVII of 1850 in the case of Mr A.J. Brooks Atkinson recently submitted to the Government by Col: Weldon and to ask you to advise the Govt, after a very careful examination of all the papers, whether the evidence adduced does in your judgment render Mr Brooks Atkinson liable to any of the penalties prescribed [illegible] Chapter IX of the Penal Code

Public Department.

No. 2907

From

Colonel Weldon

FOR ORDERS.

The Commissioner appointed under Act XXXVII of 1850 having reported in a manner adverse to Mr Brooks Atkinson on all the charges brought against that officer it remains for Government to pass such orders as appear just and consistent with the powers in such cases.

It has been found that in seven instances Mr Atkinson has borrowed money in contravention of his duty as a Civil Servant and that he has made a false statement with reference [illegible] transactions or some [illegible] them.

If the Government accepts the conclusions at which the Commissioner has arrived it only remains to send the record to the Secretary of State (Mr Atkinson having received his appointment from the Secretary of State) with a recommendation. As to the nature of that recommendation I am of opinion that nothing short of removal from the service would

Sec 22 Act XXXVII of 1850.

meet the case. The forfeiture of pension and of all advantages derivable from the Civil Fund. It is a very heavy penalty but I do not see how otherwise the offence can properly be punished.

Referring to what was said at Council yesterday in regard to the 7th Charge I note that the Commissioner is of opinion that "there is not sufficient evidence to determine" whether the sum of Rs 1000 received by Mr Atkinson from the Kin Manager of the Nawagerie Chattaris Estate "by way of loan or gift."

Though it may not be possible to say whether the passing of money in this case was in the way of gift which would make the reception of the money punishable under statute as extortion and as a misdemeanour at law may be desirable to obtain from the Law Officers whether the case which has been advised makes Mr Atkinson obnoxious to the punishment prescribed in section 165 of the Indian Penal Code for obtaining a valuable thing without consideration from a person concerned in any proceeding or business transacted by him in his capacity as a public servant.

If this enquiry ought

Section 53 of Commissioner's Report (page 50 of Record)

Stat 13 Geo III c.63. ss.23-25
33 Geo III c.52 s.62.

This may be done in case that the Members of the Council should hereafter allege that with a view to criminal proceedings Govt have withheld

Precede[illegible] further action on [illegible] Report
Cur
24/8/84

24.8.84

Geo MP
26/8/84

FOR ORDERS.

Public.

Cre. 2907

From

Colonel T. WELDON,
Commissioner under Act XXXVII of 1850,

To

The Chief Secretary to the Government of St. George.

Dated 7th August 1884.

Received. CHIEF SECRETARY 20 AUG 84 GOVERNMENT OF MADRAS

No.

Enclosures.

with 11 S.C. { 11 spare copies in office
~~1 with the Chief Secy.~~

Mr. Breeks Atkinson.

Submitting proceedings of the Commission issued for the investigation of certain charges against —.

Circulated.
E. Thurlow 20/8/84

1 Hon: Mr Master
2 Hon Mr Sullivan
3 H.E. the Comr-in-Chief
4 Right Hon.le the Governor

CONFIDENTIAL.

MADRAS,
7th August 1884.

FROM

COLONEL T. WELDON,
Commissioner under Act XXXVII of 1850,

To

THE HON. E. FORSTER WEBSTER,
Chief Secretary to the Government of Fort St. George.

SIR,

I have the honor, with reference to the Proceedings of Government, dated 21st June 1884, No. 1363 (Public), to submit the record of proceedings under my Commission to enquire into certain charges preferred against *Mr. Breeks Atkinson*, lately Acting Collector of the Tinnevelly District.

2. I regret that it has been my painful duty to express opinions unfavorable to *Mr. Atkinson* in regard to the subjects of my enquiry.

I have the honor to be,
Sir,
Your most obedient servant,

Colonel,

Commissioner.

is matter already within the cognizance of Government which would not materially aid in the decision of the particular questions referred to me for enquiry.

63. *Mr. Atkinson* has had the misfortune to suffer under a grievous burden of debt from an early period in his service. So far as I could gather from the papers which came before me, the bulk of *Mr. Atkinson's* remittances (and but little appears to have been retained for his personal use) appears to have been made in payment of past claims against him. Whether or not it was prudent to incur fresh obligations coupled with onerous terms to benefit those who, presumably, had compounded their claims, I need not discuss. It was a very unusual form of loyalty to long suffering creditors.

64. The line of defence, I regret to observe, is rather an avoidance of the merits than any attempt at substantial justification or excuse; and, in an enquiry of this nature, the defendant cannot be treated on the same strict terms as a prisoner on trial in a Criminal Court. My duty is simply to report the facts as I find them, and to submit them most respectfully, as I now do, for the further orders of Government.

Dated the 7th August 1884.

Colonel,

Commissioner.

principal and interest at 1 per centum per mensem. Assuming that the money was paid to *Mr. Atkinson*, it is not surprising if *Sadagopa Aiyengar* had doubts, but his master the Jir had none, as to what the nature of the transaction really was; and, on the same assumption, the fact that the money has never been repaid, nor even demanded, favors the view that the *Jir* rightly estimated the position. *Sadagopa Aiyengar*, when re-examined, says, "from the manner in which *Mr. Atkinson* spoke, I understood a '*loan*' was required."

It is difficult to imagine what sort of "manner" would distinguish the request for a loan from that for a gift. It may be that, with a wholesome dread of the Penal Code which impartially reaches both the giver and receiver of illegal gratifications, the witness hesitates to admit he knew it to be a gift; or the negotiants may have employed a mere euphemism the use of which the more practical *Jir* could dispense with. The visit of the Collector coming so recently after the troubles consequent on the sudden death of the late *Jir* may have disposed the Muttam people not to criticise terms too closely.

FINDING.
Seventh Article

53. On the evidence adduced in support of this Article, I am of opinion that it must be held as established that *Mr. Atkinson* did receive from *Tumbu Sadagopa Aiyengar*, the Manager of the Nanganeri Muttam, a sum of Rupees 1,000; but whether by way of loan or gift there is not sufficient evidence to determine.

Eighth Article.

54. This is a charge that *Mr. Atkinson*, when examined on the 20th May 1884, by *Mr. Garstin*, a Member of the Board of Revenue specially deputed by Government to make certain enquiries regarding *Mr. Atkinson's* affairs, stated that he, *Mr. Atkinson*, "*did not then owe any money in the district of Tinnevelly, except to shop-keepers and one month's house-rent*," which statement was false to the knowledge of *Mr. Atkinson*.

55. *Mr. Garstin* deposes that in accordance with the orders of Government, he went to Tinnevelly and made certain enquiries. He also had personal interviews with *Mr. Atkinson* on the 20th, 21st, and 22nd May 1884, and recorded the result of his examinations of *Mr. Atkinson*. Each question put to *Mr. Atkinson* and the answers given by *Mr. Atkinson* were recorded. *Mr. Atkinson* placed his initials at the foot of each page of this record and signed in full at the end of each day's examination. This record is produced by *Mr. Garstin* (Exhibit CCC). *Mr. Garstin* says:

"The statements were perfectly voluntary on *Mr. Atkinson's* part, and
" before putting questions to him I explained to him that he was at liberty
" to answer them or not as he pleased." * * * "I asked the general
" question, '*Do you owe any money in the district?*' meaning the district of
" Tinnevelly; and *Mr. Atkinson's* answer was, '*No, except to shop-keepers*
" *and house-rent for last month.*' I had previously asked him, '*How much*
" *he had borrowed since he came to the district?*' His answer was, '*About*
" *7,000 or 8,000 rupees.*' I did ask him '*If the man who lent him the money*
" *was a resident of this (Tinnevelly) district?*' His answer was '*No.*' I did
" ask '*Of what district was the man who lent him the money?* His answer
" was, '*I cannot say without his consent.*' It was after receiving this answer
" I asked *Mr. Atkinson* if he owed any money in the district."

56. This is all duly recorded (Exhibit CCC): the page on which is written the question "*Do you owe any money in the district?*" with its answer, "*No, except to shop-keepers and rent*

for last month," is initialled at foot by *Mr. Atkinson*, and at the end of the record of the day's examination is the attestation:—

"*Given before me this 20th day of May* 1884, *Palamcottah.*

"*J. H. GARSTIN.*"

and further signed

"*A. J. B. ATKINSON.*"

57. The defence to this Article is, that *Mr. Garstin* has made a mistake. That *Mr. Atkinson* "does not remember" ever telling *Mr. Garstin* that he did not owe money in the district. That such answer was read out by *Mr. Garstin* as having been recorded and that *Mr. Garstin* does not say he read out the record before taking *Mr. Atkinson's* signature. An account is given of some conversation which *Mr. Atkinson* says did take place in regard to "the Chetti" (*Arnachellam Chetti*); but as the conversation is alleged to have been held *after the 20th* it does not affect the issue. It is further suggested on the part of *Mr. Atkinson* that *Mr. Garstin* wrote from memory, and therefore may have erred.

58. The only question for decision in this instance is, did *Mr. Atkinson* make the statement alleged in the charge? If he did, then, by his own plea to the Third and Fourth Articles and his admission recorded on the proceedings, that statement was false to his knowledge.

59. Whether speaking from memory, or from his record *taken at the time*, *Mr. Garstin* is positive, and distinct as to what actually occurred. I allude to the record as *taken at the time* of the occurrence because it was put in as such, purports on its face to have been so taken, and when *Mr. Garstin* was in the witness-box not a single question was put to him in cross-examination. Six days after *Mr. Garstin's* examination before the Commissioner, when the witness had left Tinnevelly, the accuracy of the record is first challenged. The plea that the record, written in English and vouched for under *Mr. Atkinson's* hand was not read over to *Mr. Atkinson*, is one which, if I notice at all, it is merely to remark that it ought not to have been put forward.

FINDING.
Eighth Article.

60. I regret my obligation to report on this Article that I see no ground for supposing that *Mr. Garstin* made any mistake whatever as to what passed between him and *Mr. Atkinson* on the 20th May 1884. That *Mr. Atkinson* did say that he did not then owe any money in the district (Tinnevelly), and that such statement was not in accordance with facts then within *Mr. Atkinson's* knowledge. Possibly, *Mr. Atkinson* may have had an idea that he was not bound to criminate himself, and that his statement was merely equivalent to a technical plea of "Not guilty."

General Observations.

61. In the course of the enquiry some objections were taken by, and on behalf of, *Mr. Atkinson* to the reception of certain evidence tendered by the prosecution. I have noted in full in the record (pp. 5, 6 and 7) those objections and my rulings thereon, so that Government or any other authority to whom these proceedings may be submitted may judge how my decisions affect the questions at issue.

62. As these proceedings are taken for the information of Government I have not deemed it necessary to burden the record with the file of Government orders issued in 1872—1875, having reference to *Mr. Atkinson's* affairs in those years; that

necessity for specially binding two only of the conspirators, and those two very subordinate actors. These witnesses were not cross-examined.

41. Again—how, when, and why was this conspiracy, if any, conceived and matured? Why should they anticipate that the Collector would, in an unimportant place like Nanganeri, require to exchange such a large sum in cash for currency notes, and that if he did so require notes that he would not naturally obtain them where they did—from the treasury? or, that he would accept any money from them if offered to him, either as a loan or gift, supposing their conspiracy to be that, in some way, the notes were to pass or be passed into the possession of *Mr. Atkinson*?

42. I consider it may be accepted as a fact that the currency notes specified were drawn from the taluk treasury on the 1st February 1884 by the servants of the *Jir* of Nanganeri.

43. *Sadagopa Aiyengar* swears that he gave those nine currency notes, together with one other note for 100 rupees, to *Mr. Atkinson* the day they were received from the treasury (1st February 1884), and there is no further trace of those notes until, on the 15th and 16th February 1884, they, with other currency notes, were remitted from Tinnevelly in insured letters through the Post Office by *Mr. Atkinson*; that is, on the 15th February *Mr. Atkinson* so remitted a sum of Rs. 1,000, in which remittance were included six of the currency notes drawn from the taluk treasury at Nanganeri by the *Jir's* servants on 1st February; and on the 16th February a further remittance of Rs. 700 was made by *Mr. Atkinson*, which included the remaining three of the currency notes issued at Nanganeri on the 1st of the same month as before stated.

44. The so-called discrepancies as to dates I consider immaterial. *Sadagopa* explains that he had to take the Jir's instructions as to bringing the payment into account. The accountant *Sivagaminada Pillai* speaks merely from his accounts which show a payment under date 1st February 1884.

45. In the month of February 1884, *Mr. Atkinson* made remittances to a

Total of	Rs.	4,062	1 0
While his official receipts amounted only to	,,	1,958	6 9
Showing an excess of remittances over receipts of	,,	2,103	10 3
To this must be added his personal expenses during the month, say, ...	,,	400	0 0
Making a total to be accounted for of	,,	2,503	10 3

in that month's transactions.

46. On this point, and as regards his possession of those currency notes, *Mr. Atkinson* refers to the explanation he gave to *Mr. Garstin* (Exhibit CCC) as the only one he can give, namely, that the money may have been received from his lender in cash and sent out to be changed for notes. At least that is the only statement at all like an explanation that is to be found in the record of *Mr. Atkinson's* examination by *Mr. Garstin*, and to which reference is made.

47. If *Mr. Atkinson* had received cash from any legitimate source, surely that is a fact easily capable of proof? and the absence of such proof will naturally be held to discredit the

assertion, or rather the "presumption" of *Mr. Atkinson* that this *may have* been the case. It is clearly a point on which *Mr. Atkinson* himself is unwilling to speak with confidence, and he is the person who, of all others, should be in a position to show positively where the money came from. Even if that difficulty be got over, the contention that currency notes are marketable commonly and pass by mere delivery, calls, in the circumstances, for some corroboration as applied to this case. One does not send out a bag or bags containing a thousand rupees, hap-hazard, to be converted into paper currency in the street. Is it not reasonable to expect some evidence as to where, or how, these notes for 100 rupees each were obtained, if not from the man who swears he gave them to the person to whose possession they are traced?

48. Could *Mr. Atkinson* possibly have had spare cash unexpended up to date? A statement of his account for the eight months, July 1883 to February 1884, will test this point:—

Receipts.				Expenditure.			
	RS.	A.	P.		RS.	A.	P.
Official salary for eight months.	15,165	13	8	Remitted through Post Office.	23,564	0	1
Loan from V. Muhammad Rowther	3,700	0	0	Repaid V. Muhammad Rowther	2,500	0	0
Loan from Arnachellam Chetti.	5,000	0	0	Personal expenses for eight months at 400 rupees per mensem	3,200	0	0
Total Receipts ..	23,865	13	8				
Difference ..	5,398	2	5				
Total ..	29,264	0	1	Total Expenditure ..	29,264	0	1

49. Thus, there is a sum of Rs. 5,398-2-5 by which expenditure exceeded receipts, and it is clear that there could have been no cash in hand with which to purchase currency notes. The alleged loan by *P. Venamuthu Pillai* has not been included in the above statement as the transaction is disputed, and it would not, even if admitted, alter the result (except as to the sum of Rs. 100 said to have been paid on account of interest) as the receipt and payment balance. If *February's* transactions be excluded from the account, there still remains a sum of Rs. 3,294-8-2 by which expenditure exceeded receipts up to end of January 1884.

50. It is possible that *Mr. Atkinson* is on the horns of a dilemma and that this surplus income was derived from sources other than those alleged but equally objectionable, and therefore *Mr. Atkinson* is precluded from disclosing those sources. If so, *Mr. Atkinson* must accept the situation; but this possibility, while it cannot be utilised to strengthen the case for the prosecution, is, equally, not available to strengthen the defence. It is a mere conjecture which the person most interested and best acquainted with the facts does not put forward himself.

51. If it be held as established that this money was paid to *Mr. Atkinson* by *T. Sadagopa Aiyengar*, there remains the question, was it a "loan" or a "gift"?

52. *Sadagopa Aiyengar says* it was a "loan"; he *records* it as a "gift". The difficulty in regard to verbal communication between the payor and payee has already been alluded to in paragraphs 38 and 39. No third person was present either when the money was asked for, or when it was paid. No promissory note or other document was given. There was, it is alleged, a verbal promise to pay, within one month, the

at the travellers' bungalow *Mr. Atkinson* asked him for the "loan" of 5,000 rupees, to which witness replied that he could not give 5,000 rupees, but "as the gentleman had asked he would lend 1,000 rupees." No one but *Mr. Atkinson* and the witness were present at this conversation, which took place at at 8 A.M. on the "20th of the Tamil month Tai (1st February 1884) or thereabouts."

29. The gentleman having asked that the money should be paid in currency notes, witness says that on the following day he sent 900 rupees in coin to the taluk treasury by *Srinivasa Aiyengar* and *Vanamamalai Aiyengar*, two servants of the Muttam, and received from them nine currency notes each for 100 rupees, which same nine notes, together with another 100 rupees note which was in the Muttam cash-chest, he gave the same evening to *Mr. Atkinson* in the bungalow.

30. The treasury records show the issue, on the 1st February 1884, to *Srinivasa Aiyengar* and *Vanamamalai Aiyengar* of nine such notes, bearing certain serial numbers, in exchange for coin, and the signatures of those two persons were taken in the register.

31. No one was present when *Sadagopa Aiyengar* handed over the notes to *Mr. Atkinson* as alleged. Witness says he was waiting outside the bungalow for one hour until *Mr. Atkinson* could see him. No promissory note, receipt, or other document was asked for or granted by either party.

32. The Muttam accounts (cadjan) are produced, and this payment is entered under date 20th Tai 1059 (1st February 1884) as "*expended on account of gift, Rs.* 1,000." That is sworn to refer to the payment to *Mr. Atkinson*. Entries of some very petty presents to peons and others follow the above.

33. The witness states that he entered the transaction as a gift by order of the *Jir* to whom he reported the facts two days afterwards, as the *Jir* had no expectation of any repayment.

34. The Post Office records show that the whole of those nine currency notes drawn from the treasury by the Muttam people on the 1st February 1884, and said to have been paid to *Mr. Atkinson*, were remitted by *Mr. Atkinson* in insured letters on the 15th and 16th of February.

35. The witness *Sadagopa Aiyengar* was only appointed Manager when the present *Jir* succeeded his predecessor in December 1883. The late *Jir* died suddenly, and there appears to have been some enquiry set on foot by the police which involved a reference to district head-quarters for orders.

36. Beyond a passing allusion to the circumstance this matter was not further gone into before me. There is a reference to it in *Mr. Atkinson's* examination by *Mr. Garstin* (Exhibit CCC), but nothing to show that *Mr. Atkinson* interfered, nor that his visit to Nanganeri had any connection with the death of the late *Jir*, or the steps taken in consequence.

37. The defence to this article is an absolute denial of the receipt from any of the Nanganeri people of any sum of money in any shape or for any purpose whatever; alleged discrepancies in the evidence, particularly as to the date of the transaction; the absence of any intelligible means of verbal communication between *Mr. Atkinson* and *Sadagopa*, the latter of whom, nevertheless, speaks to the terms on which he advanced the money; the improbability of payment of such a sum without the previous sanction of the *Jir;* the failure to enter the transaction in the

accounts for two days after payment was said to have been made; and the absence of any promissory note or receipt. It is alleged that the cadjan accounts are concocted, and the evidence altogether, both oral and documentary, unsatisfactory and unreliable. That the very unusual course of taking the signatures on that one day only of persons to whom currency notes were issued is itself suspicious and suggestive of a conspiracy. That currency notes pass by delivery from hand to hand, and evidence that these nine notes were in *Mr. Atkinson's* possession fifteen days after their issue from the treasury to the Muttam officials is no evidence of their improper acquisition by *Mr. Atkinson*.

38. The main question on the answer to which this charge depends is, where did *Mr. Atkinson* obtain the nine specified currency notes which were admittedly in *Mr. Atkinson's* possession on the 15th and 16th February, and which were issued from the Nanganeri taluk treasury on 1st February 1884? The colloquial difficulty on which such stress has been laid is of comparatively minor importance, except for the purpose of characterising the transaction—if it took place—for, imperfect as *Sadagopa Aiyengar's* knowledge of Telugu may be—and it is very imperfect—yet, he has sufficient intelligence to know when another man wants to get money from him.

39. *Mr. Atkinson* is said to have spoken in Telugu while *Sadagopa* spoke Tamil, each conversing in the vernacular language with which he was best acquainted; but it does not follow that each was completely ignorant of the language used by the other, as, if so, there could be no conversation, and no exception has been taken to the evidence as to the visit paid by the Muttam officials and others as a mark of respect to the Collector of the district. *Sadagopa Aiyengar* says he "understands Telugu a little," he "cannot repeat all (*Mr. Atkinson*) said, but could understand it"; and when pressed to repeat the exact words referring to this "loan," he commenced in Telugu "5,000 *rupees*" and then finished the sentence in Tamil, "*loan wanted.*" Now, it is not impossible that may really be the form in which the proposition was made to him, having regard to the linguistic difficulties both parties acknowledge.

40. I see no reason to doubt the accuracy of the *Nanganeri* treasury record, and even if the signatures of *Srinivasa Aiyengar* and *Vanamamalai Aiyengar* had not been affixed contemporaneously with the delivery to them of the notes but had been subsequently added as an acknowledgment of the correctness of the entry, I do not think that would affect the validity of the original entries in the treasury record by the proper official; but beyond an unsupported suggestion by the accused, there is no reason to suspect that the signatures were not taken at the time the notes were issued. The precaution of obtaining the signatures of the persons to whom notes were issued was certainly unusual, but all the circumstances as presented by the prosecution are, happily, unusual. The notes are said to have been obtained from the treasury and paid to *Mr. Atkinson* the day after he and *Sadagopa Aiyengar* had, somehow, come to an understanding. It is not improbable that gossip had been abroad meantime, and the treasury officials in consequence adopted this unusual course of procedure. I do not consider that the taluk gumasta was quite candid in his explanation, or attempted explanation, as to why these signatures were required; but if it were part of a conspiracy, then the conspiracy must have included the taluk officials, and in that case there would be no

FINDING.

First and Second Articles.

16. Seeing, then, that all the evidence supports the case presented by the prosecution under this Article of the charge, and that no sufficient ground has been shown to impugn its truth; also that on a material point such explanation as has at any time been given is capable of proof, if true, but evidence on that point is not tendered, I am forced to the conclusion that *Mr. A. J. B. Atkinson* did, as alleged in the First and Second Articles of the charge, borrow a sum of 2,000 rupees from *P. Venamuthu Pillai*, an inhabitant of the district of Tinnevelly, under his official authority.

At the same time, it must not be overlooked that the question turns mainly on the credibility of the one witness *P. Venamuthu Pillai*; and the peons said by *Venamuthu* to have been present when the money was paid to *Mr. Atkinson* were not called either by the Prosecutor or the accused. Speaking for myself, no such reasonable doubt has been raised in my mind as would justify me in refusing to act on the evidence in support of the allegation, as opposed to a bare denial on the part of the accused.

Sixth Article.

17. In this instance, the charge is that *Mr. Atkinson* borrowed 5,000 rupees from *N. P. R. M. V. Arnachellam Chetti* on the 14th January 1884, in Tinnevelly.

18. The borrowing is not denied, but it is contended that *Mr. Atkinson* was not aware, and he disputes the allegation still, that *Arnachellam Chetti* is a "resident" of the Tinnevelly District; and *Mr. Atkinson* alleges that, in fact, he was told that *Arnachellam Chetti* was not so resident. In regard to the man's "carrying on business" in Tinnevelly, the defence is that *Mr. Atkinson* "knows nothing about it."

19. As to the circumstances in which this loan was contracted, *Kristna Row*, the Mittadar of Pudur, deposes that *Mr. Atkinson* sent for him and requested *him* to make the loan required. That he expressed his inability to comply, but promised to make enquiries with a view to *Mr. Atkinson* being otherwise accommodated. I gather from the witness' manner that he did not relish the task, and he was somewhat dilatory in the performance of his promise, perhaps trusting that his interference might eventually be dispensed with; but repeated messages were sent to him by the Collector, so, finding that he was being urged, he made arrangements with *Arnachellam Chetti* to advance the money, and accordingly intimated to *Mr. Atkinson* that he had arranged with "*the Chettiar*" to lend the money at 9 per cent. interest, meaning, but not expressly stating, *N. P. R. M. V. Arnachellam Chetti*, who was known to the witness for the last twenty or twenty-five years, as carrying on business in Tinnevelly and Rangoon as a money-dealer.

20. In company with *Subramania Pillai*, the agent and accountant of *Arnachellam Chetti*, witness went to *Mr. Atkinson's* house, informed him that the money was ready, and saw a promissory note (Exhibit D) written by *Mr. Atkinson* and handed to the person (Subramania Pillai), who had brought the money. This witness, *Kristna Row*, swears that the only question *Mr. Atkinson* asked in reference to the person who was lending the money was his name; that no question was asked as to his residence or place of business, and the witness denies having told *Mr. Atkinson* that the lender belonged to the Madura District, or that *Mr. Atkinson* ever asked to what place the lender belonged.

21. *Subramania Pillai* merely speaks to the undisputed fact of the payment of the 5,000 rupees, which is entered in his accounts as paid "through the Zemindar of Pudur." He also shows that *Arnachellam Chetti* is a native of the Madura District but has a place of business in Tinnevelly, and that he resides as much in Tinnevelly as in Madura, or elsewhere.

22. No payments have yet been made on account of this loan, and no further communication between the parties to the transaction above is shown. *Mr. Atkinson*, at the time this money was borrowed, had been only six months in the district.

23. According to the evidence, *Mr. Atkinson's* original intention was to borrow the money from the Pudur Mittadar. Had he been successful in this, there would clearly have been a contravention of the rules of the service. I need not discuss the question as to whether or not such negotiation as did take place between *Mr. Atkinson* and the Pudur Mittadar amounts to pecuniary dealing, as the charge refers to a different person; but it is clear either that *Mr. Atkinson* considered he was really dealing with and through the Mittadar of Pudur, or, he showed most extraordinary indifference as to the identity of the man to whom he passed his bond for such a large sum as 5,000 rupees; for I hold on the evidence that it has not been established that *Mr. Atkinson* did make any enquiry regarding the residence of his creditor. If *Mr. Atkinson* was so assured on this point, all the refinements of argument as to the proper domicile of *Arnachellam Chetti* were unnecessary. The evidence shows simply that no information beyond the name of the lender was asked or tendered.

24. The prohibition which *Mr. Atkinson* is charged with contravening concludes thus:

> "The Governor in Council has thought fit to specify these instances, in order that the nature of the prohibition may be distinctly comprehended; but it is by its substance and spirit, not by the terms in which it is expressed, that the conduct of public officers should be regulated and will be judged."

FINDING.

Sixth Article.

25. On the evidence as regards this Article of the charge, I am of opinion that *N. P. R. M. V. Arnachellam Chetti* is a person who, within the meaning of the prohibition, is both resident and carries on business in the district of Tinnevelly; that *Mr. Atkinson* had pecuniary dealings with this *Arnachellam Chetti*, but that the evidence is insufficient to bring home to *Mr. Atkinson*, beyond reasonable doubt, the *knowledge* that the person to whom he passed his bond was so resident and carrying on business under his authority. Mr. Atkinson on his part has not shown that he had reason to believe that his creditor was one with whom he might legitimately deal, and the presumption raised by the circumstances is against him.

Seventh Article.

26. This is the most grave charge of those relating to the improper receipt of money by *Mr. Atkinson*, in that it is framed to include either a loan—such as a needy man might contract—or a gift, the acceptance of which nothing could justify.

27. The principal witness in this case is *Tumbu Sadagopa Aiyengar*, the Manager of the Nanganeri *Muttam*. His immediate master is the *Jir* of the Mutt, supposed to be a very holy man more occupied with religious than secular duties.

28. The direct evidence in this instance is that of *Tumbu Sadagopa Aiyengar*, who states that when he visited *Mr. Atkinson*

Rs. 100; he returned the promissory notes to *Mr. Atkinson*, and made the entry in his memorandum account of the acquittance (Exhibit B).

8. That is all the direct evidence there is as to this transaction; but the Post Office records show, and *Mr. Atkinson* admits, that in this month, July 1883, *Mr. Atkinson* remitted a sum of Rs. 5,383-8-0; whereas his official salary, on which his income admittedly depends, amounted only to Rs. 1,287-4-0 for that month.

9. On behalf of *Mr. Atkinson* it is urged that *Venamuthu Pillai's* story of *Mr. Atkinson*, a stranger, asking for, and obtaining, a loan of 2,000 rupees within a few minutes after becoming acquainted with the witness is, on the face of it, highly improbable. That the so-called memoranda of accounts are utterly worthless; that a man like the witness would if he kept any accounts at all keep them in a regular form; * that the entries in these memoranda seem to have been written at different times by different hands; that the witness was a disappointed place-seeker, and that the letter (Exhibit C) was a reply to one of his numerous applications for employment in the service of Government and, shortly, to quote the words of the learned counsel for the defence, that "the story of the loan is a myth and the documents are forgeries." I have, therefore, to give my opinion on the merits of two antagonistic statements equally positive in their terms.

* NOTE—*On this point counsel volunteered a statement (of which there was no evidence) that the witness had been a Bank employé.*
T. W.

10. It is true that the parties to this alleged transaction were strangers to each other until July 1883; and there is no evidence that the acquaintance then made, and treated, as asserted, on such utilitarian principles, ever ripened to such an extent as would lay a foundation for any possible motive that *Venamuthu Pillai* could have for wishing evil to befall *Mr. Atkinson*. *Venamuthu* admits that he did, *shortly after making the loan* as alleged, apply to *Mr. Atkinson* for appointment as an "Estate Clerk"; that *Mr. Atkinson* seemed disposed to comply with his request, but that the Deputy Collector reported that the applicant was too old and there the matter seems to have dropped.

11. This evidence is not controverted, and there is no evidence whatever of those persistent applications by *Venamuthu* the refusal or neglect of which is supposed to have led him to commit perjury and forgery. If there had been no ground for claim to exceptional consideration, it is not likely that an old man like *Venamuthu* would ever conceive the idea that he could, in his declining years, obtain an appointment to Government service contrary to well-known rules.

12. The memoranda produced by the witness appear to me genuine. The differences of ink and apparent differences of handwriting only such as might be expected from the practice as explained by the witness. Certainly, if forgery had to be committed, it would not only have been unnecessary but a fatal error to have enlisted the services of several assistants.

13. Then, there is the letter (Exhibit C), which is said to be a reply to the witness' "pestering applications" for employment. Surely, there should be some record of these applications if they were made! If the applications were only verbal, on what grounds would this stranger so presume, or would an

officer in *Mr. Atkinson's* position permit a casual acquaintance to annoy him in this manner? Does the letter (C) itself disclose any sign whatever of such annoyance? On the contrary, are not the terms used, when carefully considered, very significant of a perfect understanding between the writer and recipient? Is that letter such as would probably be written by the Collector of a district to an humble candidate for employment who had wearied the dispenser of patronage by persistent importunity? What was the preparation which the writer would make in order to be "ready" to see his visitor on the date named?

14. Again, *Venamuthu* swears he claimed payment of his debt on the due date, and wrote to *Mr. Atkinson* on the 8th January 1884 to this effect. *Kristna Row*, the Pudur Mittadar, deposes that at the end of December 1883 or *beginning of January* 1884 he was sent for by *Mr. Atkinson* and asked by that gentleman to oblige him with a loan. That being unable, or unwilling, to advance the money himself, he arranged with *N. P. R. M. V. Arnachellam Chetti*, a well-known money-lender, for the required loan; and, accordingly, on the 14th January 1884, *Arnachellam Chetti* advanced a sum of Rs. 5,000 to *Mr. Atkinson* on his promissory note (Exhibit D). It was on the following day, 15th January, that *Venamuthu Pillai* waited, by appointment, on *Mr. Atkinson*, and was paid, as he swears, Rs. 2,100, being the principal and interest due to him. The correspondence between *Kristna Row* and *Mr. Atkinson* as to the success of the negotiation undertaken by the latter is not produced (*see* paragraphs 19, 20), and there is no clear evidence connecting those negotiations with the letter (Exhibit C) written by *Mr. Atkinson* to *Venamuthu Pillai*; but the inference is, that when the time approached for payment of the sum due to *Venamuthu*, negotiations with the Pudur Mittadar were set afoot and on being satisfactorily concluded, notice was given to *Venamuthu* to attend and receive his money.

15. Lastly, there is the admitted fact that *Mr. Atkinson's* receipts during July 1883 amounted to Rs. 1,287-4-0, while his remittances in the same month amounted to Rs. 5,383-8-0, being an excess of remittances over receipts of Rs. 4,096-4-0. Where did this large sum come from? The prosecutor undertakes to show where half of it came from. The person who has special knowledge of the facts offers no explanation whatever, beyond such as may be gathered from his statement to *Mr. Garstin*, the reception of which in evidence *Mr. Atkinson* strenuously objected to. As, however, I have ruled that any former statements made by *Mr. Atkinson* relative to the subject-matter of the present charges are relevant, I turn to Exhibit CCC, and there find that *Mr. Atkinson's* attention was specially directed to the difference between his receipts and his disbursements as above mentioned. His reply was "*I brought some with me. Whenever I want money I write and say, send me so much; the man brings it, that is, a servant of the man who lends it to me* * * *." There is no evidence of any kind that *Mr. Atkinson's* salary for July had been supplemented in the manner he states, assuming that *Venamuthu Pillai* was not one of those who accommodated him; and *Mr. Atkinson's* disinclination, as shown in his answer to the next question put by *Mr. Garstin*, to disclose what district the man belonged to who advanced the money, is not favorable to the unreserved acceptance of his explanation, as it is difficult to imagine what possible objection in the circumstances the *lender* could have to his residence being stated.

Civil Service in having, on the 20th May 1884, made a wilfully false statement to *Mr. J. H. Garstin*, a Member of the Board of Revenue, specially deputed by Government to make certain enquiries regarding *Mr. Atkinson's* affairs and conduct.

Third, Fourth, and Fifth Articles admitted.

2. *Mr. Atkinson* has pleaded guilty to the *Third*, *Fourth*, and *Fifth* Articles of the charge, having reference to his dealings with *V. Mahomed Kanni Rowther*, and I may, therefore, dispose of those three instances by formally recognising *Mr. Atkinson's* admission.

First and Second Articles.

3. The First and Second Articles may be taken together as referring practically to the same matter. There is only one witness who speaks to this transaction, namely, the alleged lender of the money *P. Venamuthu Pillai*. He states that, being a Municipal Commissioner for the Town of Palamcotta, he waited on *Mr. Atkinson* about 6th or 7th July 1883 to pay his respects to that gentleman as President of the Commissioners and the newly-arrived Collector of the district, *Mr. Atkinson* having, it appears, assumed charge of the Collectorate on 29th June 1883. After some conversation, which included enquiries into the witness' position and profession, *Mr. Atkinson*, it is alleged, requested his visitor to oblige him with the loan of 2,000 rupees for six months as he desired to make remittances to his family. Witness agreed to this as the amount was only equal to one month's pay of a District Collector. On the 9th July 1883, the witness says, he accordingly paid to *Mr. Atkinson* a sum of Rs. 1,000; and again, on the 10th July 1883, a further sum of Rs. 1,000, receiving from *Mr. Atkinson* two promissory notes, each for Rs. 1,000, and two further promissory notes, each for Rs. 50, on account of interest at 10 per cent. The witness produces a memorandum of this and other transactions, which, he says, is the only form of account he keeps. This transaction appears in these memoranda, which are contained in four loose sheets of ordinary country paper (*Exhibits A*, A^1, A^2, A^3), and are memoranda of outstandings due to the witness who appears to be a petty money-lender. First there is a heading "*Mortgage Account*;" and under this he enters sums advanced on the security of pledges, &c. Then comes a heading, "*Documentary Affairs*;" under which are entered transactions for which he holds documents. Then comes a heading "*Loans without Documents*;" which requires no further explanation, and refers to very petty transactions. Under the head of "*Documentary Affairs*" is entered:

"*Palamcotta—Collector Mr. Atkinson ... Rs.* 2,000,"

the date at the top of the page being 8th July 1883. The witness explains that he "balances"—as he calls it—his outstandings at uncertain times; that is, he re-enters all the items less the amounts paid since last "balancing." On this occasion he had last written, or "balanced," his account on 8th July; therefore that date appears at the head of the page and is the only date that does appear until, on a fresh sheet, he commences again on 18th August 1883; then all the advances unpaid on that date are re-entered as they stand on the date of re-entry; if, in the intervals of re-entry, any payments were received, either in full or on account, a note was made in the margin opposite the item, and in the former case the item did not again appear, in the latter case it appeared less the amount marginally noted. The transaction to which these Articles of the charge refer is duly entered on the sheets bearing the heading—dates 8th July 1883,

18th August 1883, 16th October 1883, and 12th December 1883; and in the margin opposite to the entry of the item in this last account is a note "*January 15th, received*," meaning that this sum of Rs. 2,000, which had been outstanding since July 1883, was paid off on 15th January. There is no entry of the 100 rupees on account of interest, but, as remarked before, these accounts seem to refer solely to sums actually due and not to receipts otherwise than in payment of the sum entered as principal.

4. Now, these memoranda are certainly not "books of account," as known to or recognised by any system of scientific book-keeping, and have no value in themselves as being "regularly kept in the ordinary course of business." They are just what the framer describes them—mere memoranda of current transactions, including one entry against the writer's interest. But the very eccentricity of the method adopted seems to me to speak in their favor as genuine records *quantum valeat*. If it had been intended to fabricate documentary evidence in support of this witness, the result would most probably have assumed a very different form and one less likely to challenge remark.

5. I have carefully examined these documents, especially the sheet in which the first entry of the transaction appears, and in which we find the record of what is said to have occurred on 9th and 10th July coming under a heading dated 8th July. The whole of the first page relating to "*Mortgages*," and the five entries on the second page immediately following the heading "*Documentary Affairs*," also the greater portion of the third page referring to "*Loans without Documents*," seem to have been written at the same time and with the same pen and ink as the first heading of the account containing the date "8th July 1883". Then, following the five original entries, under the heading "*Documentary Affairs*," come eight entries referring to considerable sums of which the debit to *Mr. Atkinson* is one item; and these entries appear to have been written with a different pen and in different colored ink as compared with the first entries, thus favoring the explanation given by the witness of his mode of recording his advances. There are marginal notes of recoveries on account of items originally entered, and these also are in different shades of ink. The folded sheets of memoranda are docketed outside Nos. 48, 49, 50 and so on, as being apparently portions of a continuous series.

6. Notice was given to *Mr. Atkinson* by the prosecution to produce the promissory notes alleged to have been executed by him in this matter, but the existence of these notes was denied. They are said to have been notes payable six months after date. Accordingly, on 8th January 1884, the witness wrote to *Mr. Atkinson* reminding him that the promissory notes fell due. This letter was also called for by the prosecution but not produced. Witness produces the reply which he received, and which was as follows (*Exhibit C*):—

"DEAR SIR,—In reply to your letter, I beg to say that I shall be ready to see you on Tuesday the 15th instant, at 9 A.M., if that day and hour are convenient to you.

"Yours truly,

"12th January 1884. (Signed) A. J. B. ATKINSON."

7. The witness states that on the 15th January he went to *Mr. Atkinson* and was paid the principal, Rs. 2,000, and interest,

Q.—Did you see the new Jir?

A.—No; he is gosha.

Q.—The Nángunéri records show that on the 1st February, and while you were at that place, eleven currency notes for Rs. 100 each, one for Rs. 50, seven for Rs. 20 and, one for Rs. 10, were drawn out of that taluk treasury, while the records of the Huzur treasury and of the Post Office show that, with the exception of two notes for Rs. 20 and one for Rs. 10, the whole of those notes passed into your possession and were remitted by you on February 15th and 16th to Madras or elsewhere or cashed by your peon for you at the treasury here. How do you account for these notes passing into your possession?

A.—I cannot say. I can only presume that these notes were got for me when I sent out money received from my lender in cash to get it converted into notes or to get notes of the denominations changed.

* * * * *

(Inquiry adjourned.)

Given before me this 20th day of May 1884.

PALAMCOTTAH.

(Signed) J. H. GARSTIN.
(„) A. J. B. ATKINSON.

(True Extract from the Original.)

(Signed) T. WELDON,
Commissioner.

Copy of Exhibit EEE.

Extract from the Standing Orders of the Board of Revenue, as revised by C. D. Macleane.

* * * * * * *

* * * * * * *

243. *Civilians and Natives, pecuniary dealings.*—Pecuniary dealings between Civil Servants and natives living under their authority are prohibited, except where provided for by a general or specific sanction from Government.

2. Under the head of pecuniary dealings prohibited are the borrowing or lending of money, the purchase or sale of houses, horses or carriages, inducing natives to build or buy houses for the accommodation of public officers, and generally every transaction in which profit to a public officer is in view. The supply of the ordinary wants of life by natives, according to their several trades, does not fall within the prohibition. These instances are specified in order that the nature of the prohibition may be distinctly comprehended; but it is by its general substance and spirit that the conduct of officers concerned will be judged.

3. Every inhabitant of a district is under the authority of every Revenue officer in it; so also is every native having transactions in the district or with the department, such as merchants, renters, or contractors; so in a higher degree are the native servants on any public establishments.

(A true Extract.)

(Signed) T. WELDON,
Commissioner.

Exhibit FFF.

Extract from the Manual of Rules and Regulations compiled for the use of Members of the Madras Civil Service in 1883.

Republication of G.O., dated 12th January 1827, to the same effect as Exhibit EEE.

CONFIDENTIAL.

IN THE MATTER OF A. J. B. ATKINSON, ESQ., C.S.,
Under Act XXXVII of 1850.

*

PART III.

REPORT BY THE COMMISSIONER,
DATED 7TH AUGUST 1884.

THE COMMISSIONER having considered the evidence, and the arguments and statements of counsel on behalf of *Mr. Atkinson*, submits the following

REPORT.

1. The eight Articles of charge exhibited against *Mr. Atkinson* on behalf of Government were, shortly stated, as follows:—

That he, being Acting Collector of the District of Tinnevelly, did, in contravention of the rules of Her Majesty's Covenanted Civil Service to which he belongs, have pecuniary dealings with Natives resident or carrying on business under his authority in the following instances, namely,—

FIRST ARTICLE.—Having, on the 9th July 1884, borrowed a sum of Rupees one thousand (1,000) from one *P. Venamuthu Pillai*, a resident in Palamcotta.

SECOND ARTICLE.—Having, on the 10th July 1884, borrowed a further sum of Rupees one thousand (1,000) from the same *P. Venamuthu Pillai*.

THIRD ARTICLE.—Having, on the 16th July 1883, borrowed a sum of Rupees two thousand five hundred (2,500) from one *V. Mahomed Kanni Rowther* of Tinnevelly Town.

FOURTH ARTICLE.—Having, on the 16th November 1883, borrowed a further sum of Rupees one thousand (1,000) from the same *V. Mahomed Kanni Rowther*.

FIFTH ARTICLE.—Having, on the 17th April 1884, borrowed a further sum of Rupees two hundred (200) from the same *V. Mahomed Kanni Rowther*.

SIXTH ARTICLE.—Having, on the 14th January 1884, borrowed a sum of Rupees five thousand (5,000) from one *N. P. R. M. V. Arnachellam Chetti*, a resident and person carrying on business in the Town of Tinnevelly.

SEVENTH ARTICLE.—Having, on the 1st February 1884, received from one *Tumbu Sadagopa Aiyengar*, an inhabitant of the district of Tinnevelly, a sum of Rupees one thousand (1,000) by way of loan or gift.

EIGHTH ARTICLE.—He is further charged with conduct dishonorable and unbecoming an officer of Her Majesty's Indian

Q.—From a statement given me by the Treasury Deputy Collector by my orders, I see that your official salary since you joined the district in the end of June last has amounted up to the end of April (that is, including your salary for April paid in May) to Rs 21,234-9-8, which for eleven months gives an average of Rs. 1,930-6-8. Now I find from an examination of the treasury currency note registers and the records of the Post Office that during that time you remitted through the Post Office alone in insured letters or by money orders the sum of Rs. 30,698-10-1, or nearly Rs. 9,500 more than the total sum you received as official salary. How do you explain this, and where did you get the difference?

A.—I borrowed it.

Q.—Who did you borrow it from?

A.—I decline to give the name without his permission.

Q.—On what terms did you borrow it?

A.—I made no arrangements as to terms. There were no bonds. I suppose I shall have to pay 10 or 12 per cent.

Q.—How much have you borrowed since you came to this district?

A.—About 7,000 or 8,000 rupees.

Q.—Is the man who lent you the money a resident of this district?

A.—No.

Q.—The records above alluded to show that during the month of July last, when you only received Rs. 1,287-4-0 as salary, you remitted chiefly in notes Rs. 5,383-8-0, and that of this amount on the 10th, 12th, and 17th July you got currency notes at the Government treasury for Rs. 4,100 sent to the said treasury by you *in cash* by peons of your office establishment. If, as you say, you borrow money from a person not resident in the district, how came it that within about a fortnight of your joining the district you had this very large sum of rupees in your possession?

A.—I brought some with me; whenever I want money I write and say send me so much. The man brings it—that is, a servant of the man who lends it to me—sometimes in notes and sometimes in cash and I get it changed anywhere as I require it.

Q.—Of what district is this man who lends you the money a resident?

A.—I cannot say without his previous consent.

* * * * *

Q.—Do you owe any money in the district?

A.—No, except to shopkeepers and house-rent for last month.

Q.—Have you ever remitted money through the Tuticorin Bank?

A.—Yes; once I remitted Rs. 1,010, as well as I recollect, to Ootacamund.

Q.—To whom did you send it?

A.—To Dadabhai Eduljee.

Q.—When the Nángunéri Jir died and the report of his death reached you, did some of the muttum people accompany it?

A.—Yes; a great crowd came with it on the morning of Christmas day. I presume they were muttum people as they were protesting against the holding of a *post-mortem* on the body.

Q.—Did you then tax or accuse, jestingly or in earnest, these people with having murdered the Jir?

A.—No; I don't know enough Tamil to talk to them.

Q.—Were you at Nángunéri on January 31st and February 1st 1884?

A.—I cannot say without looking at the book, but it was somewhere about then.

Q.—Did you see Srinavasa Iyengar or Vanamamalai Iyengar or Gopalakistna Iyengar while you were there?

A.—Who are they? I don't know them. I saw lots of people while I was there and went over the pagoda one afternoon.

Q.—Did you ever receive any money from anybody at or from Nángunéri in connection with the muttum there?

A.—No.

Q.—While at Nángunéri did you talk with the muttum people about the late Jir's death?

A.—I never mentioned the subject. I merely went over the pagoda and the new Jir sent out a message.

nt that he had found Mr. Rice in a drunken state on the 5th idem; and
Rice had been drunk and incapable for two or three days previously.
r. Rice was immediately informed that, after the forbearance already
his frequent promises of amendment, the Government thought him
f no further consideration, and were most unwilling to retain him in
ch he had thus disgraced. In consideration, however, of the facts
Glenny, they resolved to give him a last chance of retrieving his
warned him that the next outbreak of intemperance on his part
entail his immediate suspension from office and a recommendation
f State for his removal from the public service.

ernment considered it undesirable that, after what had occurr
e permitted to remain in the responsible position of a Distri
Judge, and he was accordingly trans-
Gazette, dated 21st October ferred * to the permanent Sub-Collec-
torate of the Godávari Di

ing intimation of his transfer and reduction, Mr. Rice forwarded
he Government in which he denied the a uracy of Mr. Glenny's
ondition in which he had found him, a dded that that officer
the cause of his condition on the 5th O ber, which was merely
liver, accompanied with biliousness; in support of this assertio
ificate signed by Dr. Bain to the effect that when he visited
October, he saw no signs of intemperance in him.

on being asked whether he had any reason to believe that he was
ount he laid before Government of Mr. Rice's condition,
emphatic manner, that he had never before seen a man more
and was prepared, in self-defence, to say and prove a deal

ent thereupon called upon Mr. Rice to deny, in writing, the
n Mr. Glenny's letter, in which case, a formal inquiry into
ld be instituted and the result reported to the Secretary of
elf upon the mercy of the Government.

mber, Mr. Rice wrote a letter in which his denial of the
d; but on the following day he begged to be allowed to
s correspondence on the subject of what he termed his
t permission to join his new appointment, and expressed
r all that had occurred.

r in Council understands that by this last letter Mr. Rice
d incapable;
overnment a series of falsehoods in the hope of screening

ed Mr. Glenny, the most forbearing of superiors and friends.
n Council, having given anxious consideration to the case,
ansferring Mr. Rice to the Sub-Collectorate of Godávari
already directed Mr. Rice to join that district. These
laced confidentially on record.

the Government to warn Mr. Rice once more that mercy
the last time, and that his next relapse will inevitably
suspension and a report to the Secretary of State in
emoved from the public service.

FW 5/12

Circulation

nt to Mr. Rice his denial
to permit Mr. Rice

FW

RM 7/12

9 TH DECEMBER 1884, No. 2641, PUBLIC.

CONFIDENTIAL.

GOVERNMENT OF MADRAS.

PUBLIC DEPARTMENT.

ORDER—dated 9th December 1884, No. 2641, Public.

In September 1877, Mr. Wedderburn, then Collector of Coim
for the orders of Government, a "grossly insulting, malignan
letter, dated Bellary, 27th September, purporting to be written
Civil Service, who was then an Assistant at that station.

2. Mr. Rice admitted that he wrote the letter and confes
"a very stupid, defenceless thing," but pleaded that he had w
of irritation and thoughtlessness caused by bad news from hom

3. The Government, on consideration of these facts, de
Rice for six months
the end of that time
subsequent promotion to any higher grade being dependent on

G.O., No. 1527, dated 27th November 1877.

4. The Secretary of State, to whom the whole matter was re
action of this Gov
"great doubt whe
a letter as that a
to Mr. Wedderb
to remain in the

* Despatch to Secretary of State, No. 44, dated 12th November 1877.

G.D., dated 23rd January 1878, No. 125.

5. On the 27th December, however, before three mon
passed, many letters of apology having been tendered by Mr.
were pleased, in the belief that Mr. Rice had realised the g
not only to remit t
ment, but to er
Assistant, Bellary, on a salary exceeding that of an Assista

G.O., 27th December 1877, No. 1736.

6. Mr. Rice was subsequently informed† that the Secreta
he (Mr. Rice) wo
conduct that he d
leniency which had been manifested towards him by th
mitigating his original punishment."

† G.O., 12th March 1878, No. 431.

7. At the end of 1880, Mr. Rice was obliged, in conse
entirely caused by his intemperate habits, to proceed on
period of twenty-one months.

8. In December 1882, Mr. Rice was permitted to
posted as Acting Head Assistant, Kurnool, under Mr. G
to submit periodical reports as to Mr. Rice's behavio
Mr. Rice was promoted to the Acting Sub-Collectorat
transferred to an Acting Sub-Collectorate in Tinnevelly
confirmed in that post, and in February 1884 was ap
and Sessions Judge, Kurnool.

9. Up to October last Mr. Rice would appear to ha
proper manner. On the 6th October, however, Mr.

was by way of loan. I think the Judge, upon Sadagopa Iyengar's evidence, would direct an acquittal.

11. It is, in the nature of things, as the law stands, difficult to procure reliable evidence in such cases, for all persons who take part in giving gratifications to public servants are themselves guilty of an offence, and their evidence will be treated accordingly. If the law were that the receiver only, and not the giver, were liable to punishment, this would facilitate proof, but would probably lead to results as little to be approved of as the present state of things.

29*th August* 1884.

(Signed) P. O'SULLIVAN,
Advocate-General.

Q.
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2. It is, of course, expedient that persons holding official positions reasonably suspected of corruption, upon sufficient proof, should be made amenable to the criminal law; but, on the other hand, a prosecution which ends in a verdict of not guilty is not calculated to restrain corruption, but rather to promote it, for it would show, with greater clearness, the difficulty of adducing proof sufficient to secure conviction.

3. In this case it has been established to Colonel Weldon's satisfaction, upon sufficient proof in an inquiry of this kind, that Mr. Atkinson has received Rs. 1,000, whether by way of gift or loan, under circumstances discreditable to Mr. Atkinson. His official superiors can now deal with him upon this charge, as well as the other charges preferred. But, if this case is submitted to a criminal court and the result should be a verdict of not guilty, as I expect, the moral effect of the conclusions arrived at by Colonel Weldon, upon this and the other charges, would be impaired, and it may turn out that the official superiors of Mr. Atkinson may not feel themselves justified in dealing with Mr. Atkinson as they may think he deserves, and as they may feel disposed to do, if the verdict of the jury were out of the way.

4. The conclusions of the jury and of Colonel Weldon may well stand together, even if apparently diverse, for Colonel Weldon was at liberty to draw inferences from facts before him, some of which perhaps would not be in evidence before the jury. Colonel Weldon was also justified in drawing inferences from the failure to explain matters which required explanation upon the inquiry before him; but a jury may not be prepared to do the same to the same extent and may say—The prosecution must prove the case without leaving upon our minds a reasonable doubt.

5. In case a criminal prosecution is commenced, I think it would be sufficiently proved that Sadagopa Iyengar, the agent of the Matt, had received Rs. 900, in currency notes of Rs. 100 each, from the Nángunéri taluk treasury on the 2nd February 1884 in exchange for cash, although an unusual course was adopted at the treasury in requiring the persons to whom the money was paid to sign the record, and no satisfactory explanation is given why this unusual course was taken. Sadagopa Iyengar says he gave Mr. Atkinson the same nine notes which his agents received from the treasury and another note for Rs. 100, making in all Rs. 1,000, on the evening of the 2nd February 1884, in the travellers' bungalow at Nángunéri. Sadagopa Iyengar wishes to make it appear that he understood on the 1st and 2nd February (when the money was asked for by, and paid to, Mr. Atkinson) it was to be a loan. He says, when he paid the money: "I asked Mr. Atkinson for a promissory note; he said he would repay the money *on the next day*. I did ask for interest; Mr. Atkinson said he would pay principal and interest in *one month*. Interest fixed was one per cent. per mensem." He further says that no application was made by him afterwards for repayment. It does not appear whether the conversation as to payment of principal and interest took place after Sadagopa Iyengar had given the notes to Mr. Atkinson or before it, but it would appear that, when the loan was asked for on the 1st February, nothing was said about repayment or interest.

6. As this witness represents the transaction there was nothing in it culpable, not to say criminal, on his part, nor criminal on the part of Mr. Atkinson, and the fact that the notes are traced to Mr. Atkinson's possession would have no significance in a criminal prosecution supported by the evidence of Sadagopa Iyengar. It may be suggested that Mr. Atkinson intended to cheat, for he did not intend to repay the money, of which his refusal to give a promissory note would be some evidence. As to this, it appears that he has never been asked for repayment. But he has denied the loan. This he did also in other instances where he thought there would be difficulty in the proof, because to admit the loan was against his official interest at all events.

7. The Matt accounts are produced to corroborate Sadagopa Iyengar, and they contain the following entry: "1st February 1884, expended on account of gift, Rs. 1,000." The payment was on the 2nd February. The entry, which is not admissible as independent, but only as corroborative, evidence, so far from corroborating, alters the whole aspect of the case. The difference between a loan and a gift in the case of a criminal prosecution would be all important. Nor is Sadagopa Iyengar's explanation why the entry in the account was made at all satisfactory. The entry was made under the direction of Sadagopa Iyengar himself. He says that when he reported the transaction to the Jir, the Jir ordered it to be entered as a gift. It is not likely that the Jir would have directed such an entry to be made if Sadagopa Iyengar had represented the transaction to him as Sadagopa Iyengar now represents it. If the Jir, through perversity or for any other reason, chose to direct the entry to be made as it now appears, it does not represent the truth of the case according to Sadagopa Iyengar, the only person, besides Mr. Atkinson (so far as appears), who knows what the truth is.

8. It may be said that Sadagopa Iyengar knew that the transaction was a gift, but he could not be expected to criminate himself, for, if it were a gift, he had given it. This, I think, is probably the right view of the case; but the entry in the account, without Sadagopa Iyengar's evidence, will not be sufficient to prove the true case, and Sadagopa Iyengar's evidence, so far from supporting the entry, would show that the entry was not in accordance with the facts as they occurred. If it were a gift, how is the evidence of Sadagopa Iyengar hereinbefore quoted to be reconciled with the fact that it was a gift? If he has invented the conversation as to the promissory note and interest, how could any criminal court rely upon his evidence? The entry does not mention Mr. Atkinson's name, and, if it did, it would, of itself, not be sufficient proof in point of law that Mr. Atkinson received it as a gift or loan. If the conclusion of the Court were that the transaction amounted to a gift, then Sadagopa Iyengar would be a tainted witness, whose evidence would require to be corroborated upon some material point affecting the guilt of the accused, unless indeed the further extraordinary conclusion were come to that, though it was a gift, Sadagopa Iyengar (notwithstanding the entry in the account) thought it was a loan! If he thought it was a gift, he would not only be a tainted witness, but a witness who has given false evidence with reference to this very transaction. There would, no doubt, in that case, be the evidence derived from the possession by Mr. Atkinson, on the 15th and 16th February 1884, of the nine notes obtained from the taluk treasury on the 2nd February, but, upon the evidence as it stands, I do not think this circumstance would be material upon the charge which a criminal court would have to try.

9. I think a loan of money to a public servant may, in some circumstances, amount to the giving and receiving an illegal gratification. But this is not the case in respect of any of the charges preferred before Colonel Weldon, for the evidence shows that a substantial sum by way of interest was paid or promised. In the case of Sadagopa Iyengar, the interest promised was 12 per cent. per annum.

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Enc. 4101

DISPOSED OF
25 NOV 84
PROCD. 2524 (illegible)

Government of India, Home Department, No 11
dated 16th July 1884, of which I am to enclose
a copy for the information of His Excellency
the Governor of Madras.

I have the honor to be
Sir,
Your most obedient Servant

For Chief Secretary to Government
North Western Provinces and Oudh

Confidl

See 116 to 1

The Hon'ble Mr Mackay
&c &c &c.

See Q 22/11
order 25th Nov 1884 No

All communications to Government should give the Number, Date, and Subject of any previous correspondence, and should note the Department quoted.

No. 801 of 1884.
M. 459-2

From

The Chief Secretary to Government,
N.-W. Provinces and Oudh,

To

The Chief Secretary to Government
Fort St. George
Madras

General Department.

Dated Allahabad 11th November 1884.

Sir,

With reference to your letter No 2276, Miscellaneous, Public Department, dated 21st October last, I am directed to say that the only action taken by this Government on the receipt of the letter from the Government of India, Home Department, No 33-1388 dated 5th September, 1884, was to submit the names of eligible candidates for appointment as probationers to the Statutory Service in these provinces.

2. I am to add that the views of this Government on the subject of improving the existing rules for making appointments to the statutory services, will be found in my Confidential letter to the address of the

Govern...

CONFIDENTIAL.]

No. 11 of 1884.

From

THE CHIEF SECRETARY TO GOVERNMENT,
N.-W. PROVINCES AND OUDH,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT.

Dated Naini Tal, the 16th July, 1884.

SIR,

GENERAL DEPARTMENT.

I AM directed to acknowledge the receipt of your confidential letter No. $\frac{19}{720}$A., dated the 30th April, 1884, in which the Government of India desire the opinion of the Lieutenant-Governor and Chief Commissioner upon certain suggestions regarding the statutory rules of 1879, for the appointment of natives of India to offices ordinarily held by members of Her Majesty's Civil Service of India, and generally upon the best mode of improving the working of the existing rules.

2. In reply, I am directed to state that the Lieutenant-Governor and Chief Commissioner has consulted the gentlemen marginally noted, and to forward in original the opinions submitted by them.

Mr. B. W. Colvin, C.S.
Mr. C. A. Daniell, C.S.
Mr. J. J. F. Lumsden, C.S.
Hon'ble W. Duthoit, C.S., D.C.L.
Mr. G. E. Ward, C.S.
Mr. M. A. McConaghey, C.S.
Mr. A. Cadell, C.S.
Lieutenant-Colonel G. E. Erskine.
Mr. R. T. H. Griffith.
Mr. A. S. Harrison.
Rája Shiva Dayal, C.S.I.
Rája Udai Partáb Singh, C.S.I.
Singh of Bhinga.

3. Considering in their order the different suggestions set forth in your letter, it will be seen that the

I.—That a provincial list of eligible candidates be maintained, and an annual competition held among them, for the number of available vacancies with a minimum qualifying standard.

principle of selection by competitive examination is generally disapproved. It obtains complete support only from Colonel Erskine, Sayyid Ahmad Khán, the Rája of Bhinga, and in a modified degree from Mr. Lumsden. One strong practical objection to the scheme is that advanced by Mr. Quinton. If the standard of eligibility be that laid down in the Resolution of the Government of India, No. $\frac{59}{2324\text{-}29}$, dated 24th December, 1879, it would be impossible to obtain a sufficient supply of qualified candidates to render the competition a reality, while the field of selection could not be widened without departing from that standard, and without opening the statutory Civil Service to those classes from which Government can already freely recruit the uncovenated grades of its service. It is not clear that under a system of limited competition those nominees would be selected who would make the most efficient public servants; and it seems certain that the system would be highly distasteful to the class to secure the enlistment of whom in Government service the rules were designed, and would operate to limit still further the number of qualified candidates of that class.