

Judicial (1895) Department.

ORDINARY PRINTED.

G.O., No 1979

Dated 23rd Sept. 1895

INDEXED.

[Despatch Abstract.]

BILL TO AMEND THE LEGAL PRACTITIONERS' ACT.

Communicating to the Hon. the Judges of the High Court and certain bodies and officers, letter from the Government of India, with its enclosures, for favour of their opinion on the provisions of the--- and directing publication of the Bill with statement of Objects and Reasons in the Port St. George Gazette in English and all the vernaculars of the Presidency

BACK PAPERS.

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

FURTHER PAPERS.

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

23RD SEPTEMBER 1895, No. 1979, JUDICIAL.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—the following paper :—

From J. M. MACPHERSON, Esq., Officiating Secretary to the Government of India, Legislative Department, to the Chief Secretary to the Government of Madras, dated Simla, the 23rd August 1895, No. 1529.

I am directed to forward herewith forty copies of the papers noted on the margin, and to request that the Governor in Council will favour the Government of India in this department with an expression of his opinion on the provisions of the Bill, and with the opinions of the Honourable the Judges of the High Court and of such selected officers and other persons as the Governor in Council may think fit to consult on the subject.

2. I am also to request that the Bill and Statement may be published in the *Fort St. George Gazette* in English and in such other languages as the Governor in Council may deem proper, and that the dates of publication of both may be communicated in your reply.

3. The reply to this letter should be sent in by the 1st December next.

ORDER—dated 23rd September 1895, No. 1979, Judicial.

The foregoing letter from the Government of India, with its enclosures, will be communicated to the Hon'ble the Judges of the High Court, the Advocate-General, the Madras Attorneys' Association, the Bar Association, the Madras High Court Vakils' Association and the following officers, for favour of an expression of opinion :—

Mr. T. Weir.

„ J. A. Davies.

„ T. M. Horsfall.

Mr. L. Moore.

„ H. H. O'Farrell.

„ G. T. Mackenzie.

2. The draft Bill with the Statement of Objects and Reasons will be published in the *Fort St. George Gazette* in English and all the vernaculars of the Presidency. The Superintendent, Government Press, should report without delay the dates of the publication.

(True Extract.)

Chief Secretary.

To the Hon'ble the Chief Justice, with C.L.,
 „ Government Solicitor,
 „ Officers named above,
 „ Madras Attorney's Association,
 „ „ Bar Association,
 „ „ High Court Vakils' Association,
 „ Translators to Government,
 „ Superintendent, Government Press,
 Gazette.

} with enclosures.

Exd. S. J. Pereira.

Govt. of {1895} Madras.
JUDICIAL.

Issued

Recd.

Encl.

G.O., 23rd Sept. 1895, No. 1979.

SEPTEMBER.

Bill to amend the
Legal Practitioners Act, 1879.

Communicating to the Hon'ble the Judges of the High Court and certain bodies and officers letter from the Government of India, with its enclosures, for favour of their opinion on the provisions of the —, and directing publication of the Bill with Statement of Objects and Reasons in the *Fort St. George Gazette* in English and all the vernaculars of the Presidency.

STATEMENT OF OBJECTS AND REASONS.

UNDER section 36 of Act XVIII of 1879 it is an offence on the part of any person to solicit or receive commission from a legal practitioner in consideration for procuring him business, and equally an offence on the part of a legal practitioner to give or offer such commission. The object of this provision was to suppress the practice of touting, but the difficulty of proving the fact of the actual tender, receipt or payment of commission appears to have rendered it insufficient for the purpose, and the evil against which it was directed, instead of being suppressed, is believed to have increased to the detriment of the best interests alike of the public and of the legal profession.

It is proposed by the present Bill, which follows the lines of certain suggestions obtained from the Calcutta High Court, to amend the Act so as to render every legal practitioner, whether he be a Pleader, a Mukhtar or a Revenue-Agent, who accepts any legal business through a *dalal* or law-tout, liable thereby to suspension and dismissal by the principal Civil or Revenue Judge of the District, as the case may be; and, to make the law the more efficacious, it is provided, by way of an *Explanation*, that a person may be shown by evidence of general repute or otherwise to be an habitual *dalal* or law-tout, while the burden of proving that he did not know that such a person was an habitual *dalal* or law-tout is thrown upon the legal practitioner charged with having obtained employment through him. The increased powers of suspension and dismissal are, however, to be subject to appeal to the High Court.

The 12th August, 1895.

ALEX. EDW. MILLER.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

ANNEXURE

TO
Bill to amend the Legal Practitioners Act,
1879.

(Statement of Objects and Reasons.)

A
BILL
TO

Amend the Legal Practitioners Act, 1879.

WHEREAS it is expedient to amend the Legal Practitioners Act, 1879; It is hereby enacted as follows:— XVIII of 1879.

1. For section 13 of the said Act the following shall be substituted, namely:—
Substitution of new section for section 13, Act XVIII, 1879.

"13. The High Court may also, after such inquiry as it thinks fit, suspend or dismiss any Pleader or Mukhtár holding a certificate as aforesaid—
Suspension and dismissal of Pleaders and Mukhtárs guilty of unprofessional conduct.

- (a) who takes instructions in any case except from the party on whose behalf he is retained or a private servant of such party, or some person who is the recognized agent of such party within the meaning of the Code of Civil Procedure, XIV of 1882, or
- (b) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or
- (c) who tenders, gives or consents to the retention of any gratification for procuring or having procured the employment in any legal business of himself or any other Pleader or Mukhtár holding a certificate as aforesaid, or
- (d) who accepts any employment in any legal business through a person whom he knows or has reason to believe not to be a Pleader or Mukhtár holding a certificate as aforesaid, and who is not offering the employment gratuitously, or through any person who habitually acts as a *dalal* or law-tout, or

(e) for any other reasonable cause:

Provided that where the party is—

- (a) a *pardanashin* woman, or
- (b) unable for any sufficient cause to instruct the Pleader or Mukhtár in person,

nothing in this section shall make a Pleader or Mukhtár liable to suspension or dismissal merely by reason that he has taken instructions from a relative or friend authorized by the party to give such instructions and not receiving any remuneration in respect thereof.

Explanation.—For the purposes of this section a person may be proved by evidence of general repute or otherwise to be an habitual

dalal or law-tout, and the burden of proof that a Pleader or Mukhtár who has accepted employment from any such person was not aware that he was an habitual *dalal* or law-tout shall lie upon such Pleader or Mukhtár."

2. In section 14 of the said Act, for the portion from and including the Amendment of section 14, Act XVIII, 1879, words "and shall report the same to the High Court" down to the end of the section, the following shall be substituted, namely:—

"and shall, except when such officer is the District or Sessions Judge or the Commissioner of the Division, report the same to the Court or Authority hereafter specified in that behalf, and such Court or Authority shall, upon receipt of the said report, and after hearing the Pleader or Mukhtár or his recognised agent on his behalf, make an order acquitting, suspending from practice for a time to be specified in the order, or dismissing the Pleader or Mukhtár.

When such officer is the District or Sessions Judge or the Commissioner of the Division, he may of his own authority, after hearing the Pleader or Mukhtár or his recognised agent on his behalf, make such order as is mentioned in the last foregoing clause.

The Pleader or Mukhtár affected by any such order may within one month from the date thereof appeal therefrom to the High Court, and the High Court may, after hearing the appellant or his recognised agent on his behalf, confirm, reverse or vary the order appealed from, or make such other order instead thereof as may be just.

Every report made under this section shall be made—

- (a) by the Judge of any Civil Court subordinate to the District Judge, to such Judge;
- (b) by any Magistrate, including the District Magistrate, to the Sessions Judge;
- (c) by the presiding officer of any revenue office subordinate to the Commissioner of the Division or, where there is no such Commissioner, to the Chief Controlling Revenue-authority, to such Commissioner or Authority."

3. For section 22 of the said Act the following shall be substituted, namely:—
Substitution of new section for section 22, Act XVIII, 1879.

"22. The Chief Controlling Revenue-Authority may also, after making such inquiry as it thinks fit, suspend or dismiss any Revenue-Agent holding a certificate issued under this Act—

- (a) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or

- (b) who tenders, gives or consents to the retention of any gratification for procuring or having procured the employment in any legal business of himself or any other Revenue-Agent holding a certificate as aforesaid, or

- (c) who accepts any employment in any legal business through a person whom he knows or has reason to believe not to be a Revenue-Agent holding a certificate as aforesaid, and who is not offering the employment gratuitously or through any person who habitually acts as a *dalal* or law-tout, or

- (d) for any other reasonable cause.

Explanation.—For the purposes of this section a person may be proved by evidence of general repute or otherwise to be an habitual *dalal* or law-tout, and the burden of proof that a Revenue-Agent who has accepted employment from any such person was not aware that he was an habitual *dalal* or law-tout shall lie upon such Revenue-Agent."

4. In section 23 of the said Act, for the Amendment of section 23, Act XVIII, 1879, portion from and including the words "and report the same to the Chief Controlling Revenue-authority," down to the end of the section the following shall be substituted, namely:—

"and shall report the same, when such officer is subordinate to the Commissioner of the Division or is a Munsif, to such Commissioner, or where there is no such Commissioner, to the Chief Controlling Revenue-authority, and such Commissioner or Authority shall, upon receipt of such report, and after hearing the Revenue-Agent or his recognised agent on his behalf, make an order acquitting, suspending for a time to be named in the order, or dismissing the Revenue-Agent.

When such officer is the Commissioner of the Division, he may of his own authority, after hearing the Revenue-Agent or his recognised agent on his behalf, make such order as is mentioned in the last foregoing clause.

The Revenue-Agent affected by any such order of a Commissioner of a Division may, within one month from the date thereof, appeal therefrom to the Chief Controlling Revenue-authority, and such Authority may, after hearing the appellant or his recognised agent on his behalf, confirm, reverse or vary the order appealed from, or make such other order instead thereof as may be just."

G. C. Press, Simla.—No. 228 L. D.—22-8-95.—350.

FROM

To

THE CHIEF SECRETARY TO THE GOVERNMENT OF

Madras.

Dated Simla, the 23rd August, 1895.

SIR,

I AM directed to forward herewith *Forty* copies of the *A Bill to amend the legal Practitioners Act, 1879, with Statement of Objects and Reasons.* } papers noted on the margin, and to request that the Governor in Council will favour the Government of India in this Department with an expression of his opinion on the provisions of the Bill, and with the opinions of the Hon'ble the Judges of the High Court and of such selected officers and other persons as the Governor in Council may think fit to consult on the subject.

2. I am also to request that the Bill and Statement may be published in the *Port of George* Gazette in English, and in such other languages as the Governor in Council may deem proper, and that the dates of publication of both may be communicated in your reply.

3. The reply to this letter should be sent in by the 1st December next.

I have the honour to be,

SIR,

Your obedient Servant,

J. M. Macpherson

[Signature] Secretary to the Government of India.

[C. G. D.B.S.]

G. C. Press, Simla.—No. 503 L. D.—16-3-92.—100.

4099
Judl. Sept.

From

The Govt of India,
Leg. Sept.

N^o 1529

Date 23rd } Aug. 1895.
Recd 29th }
Ref 29th }
39 D.C. for each insto.

Subject.

Forwarding copies of Bill to amend
the Legal Practitioners Act 1879
with Statement of Objects & Reasons.

MR 33/9

Order

Mis

The foregoing letter from the Govt
of India with its enclosures, will be comm^d
to the Honble the Judges of the High
Court and the Advocate General
for favor of an expression of opinion.

2. The draft Bill with the Statement
of Objects and Reasons will be published
in the Fort St George Gazette in English and
all the vernaculars of the Presy.

13/5/95 12-8-95

* h.B. of 1879
The act was translated into all
vernaculars.

To the Honble the C.J. with C.L. } A + O
" Govt. Solicitor. } with encls.
Gazette
The Translations

MR 3-18-95

for orders As to whether (i) any other officers
should be consulted & (ii) the Bill should be
published in any of the vernaculars?

MR 3/9

2nd copy to be published

[G.
24.]

10-23-7-95.

Judl. DEPARTMENT.

Papers to be read in proceedings:—

Again G.O., dated

189 , No.

Again G.O., dated

189 , No.

Current No.

4099

of 1895, dated 23 Aug, from the Govt. of India, Leg. Sept.

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" 189 , "

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ORDER.

23rd September 1895, No 1979.

The foregoing letter from the Govt of India
with its enclosures, will be communicated to the Honble
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the Madras Attorney's Association, the Bar Associa-
tion, the Madras Vakils' Association and the
following officers for favor of an expression of opinion:—

Mr. T. Wiv.

Mr. H. A. O'Farrell.

.. F. A. Davies.

.. G. T. Mackenzie.

.. T. M. Horsfall.

.. L. Moore.

2. The draft Bill with the Statement of Objects and
Reasons will be published in the Fort St George Gazette
in English and all the vernaculars of the Presy.
The Supt. Govt. Press, should report without delay the
dates of the publication.

14/5/95

16-5-95

To the Honble the C.J. with C.L. }
" Govt. Solicitor. }
" Officers named above }
" Headmaster }
" Headmaster }

H. L. O'Farrell
will be sent
separately

Bill to amend the Legal
Practitioners Act, 1879.

(For approval)

Itm

Subm. Des. for
perusal before
Board

2
1879

For us

Seen: I will not binding
disposal of them ^{last of them} reports
but it is not always
easy to make a selection
which one is done with
much with approval

DESPATCH
It

0.179 dit
1979

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DATED

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ORDER OF GOVERNMENT.

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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