

Judicial (1895) Department.

ORDINARY PRINTED.

G.O., No. 349.

Dated 16th Feb. 1895.

INDEXED.

[Despatch Abstract.]

ATTORNEYS AND SOLICITORS

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16TH FEBRUARY 1895, No. 349, JUDICIAL.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—the following paper :—

From H. LUSON, Esq., Under Secretary to the Government of India (Home Department—Judicial), to the Chief Secretary to the Government of Madras, dated Calcutta, the 25th January 1895, No. 131.

I am directed to forward a copy of a despatch from the Secretary of State noted in the margin, on the subject of No. 45, Judicial, dated 1st November 1894. a draft Bill to deal with the question of reciprocity in the admission of Attorneys and Solicitors to practise as between the United Kingdom and the Colonies and India, and to say that the Governor-General in Council will be glad to be furnished with the views of the Hon'ble the Chief Justice and Judges and of the leading Attorneys of the High Court at Madras on the subject.

ENCLOSURES.

Despatch from the Right Honorable the Secretary of State for India, to His Excellency the Right Honorable the Governor-General of India in Council, dated India Office, London, the 1st November 1894, No. 45 (Judicial).

I forward, for the consideration of your Excellency in Council, copy of a letter from the Colonial office, with its enclosures, which include the draft of a Bill to deal with the question of reciprocity in the admission of Attorneys and Solicitors to practise as between the United Kingdom and the Colonies and India.

Dated 12th October 1894.

2. As at present advised I see no objection to the Bill, but I shall be glad to have the opinion of your Excellency in Council upon it after you have obtained the views of the Judges and the leading Attorneys of the several High Courts.

From E. FAIRFIELD, Esq., to the Under Secretary of State for India, dated Colonial Office, Downing Street, the 12th October 1894.

I am directed by the Marquess of Ripon to transmit to you, to be laid before Mr. Secretary Fowler, a copy of a letter from the Incorporated Law Society enclosing the draft of a Bill to deal with the question of reciprocity in the admission of Solicitors to practise as between the United Kingdom and the Colonies and India.

Incorporated Law Society, 28th July 1894.
Two copies Draft Bill.

This draft Bill has arisen out of an application from the Colony of Queensland as will be seen from a letter from the Chief Justice of that Colony, dated the 19th of May 1893, of which a copy is enclosed. It will be seen from the

Chief Justice, Queensland, dated 19th May 1893.

letter from the Incorporated Law Society that questions have also arisen in Victoria on this subject, and that it is considered that the present Acts dealing with the admission of Colonial Solicitors to practise in England are in many respects confusing and unsatisfactory. To meet these difficulties the present Bill has been prepared, and before communicating further with the Incorporated Law Society in regard to it, Lord Ripon would be glad to receive any observations which Mr. Fowler may desire to offer upon it, especially in regard to its proposed application to India.

From S. P. B. BUCKNILL, Esq., Assistant Secretary, Incorporated Law Society, to J. BRAMSON, Esq., c.b., &c., Colonial Office, S.W., dated London, the 28th July 1891.

You may remember that by a letter, dated the 19th of December 1893, I informed you that the Council of the Incorporated Law Society proposed to submit, for the consideration of the Secretary of State for the Colonies, the draft of a Bill to deal with the question of reciprocity in the admission of Solicitors between the Colony of Queensland and the United Kingdom.

Questions have also risen in the Colony of Victoria as to the admission of English Solicitors to practise in that Colony; and as the present Acts dealing with the admission of Colonial Solicitors to practise in England are in many respects somewhat confusing and unsatisfactory, it is considered advisable to proceed by a Bill which will deal with all the Colonies and would consolidate the existing Acts and remedy their defects in the directions indicated by the Chief Justice of Queensland, and I now enclose for His Lordship's consideration a Bill which has been prepared by this society to carry that object into effect.

* *Draft of a Bill to regulate the admission of Attorneys and Solicitors of the Superior Courts in the Colonies and British India as Solicitors of the Supreme Court of Judicature in England.*

Whereas it is desirable to repeal the Colonial Attorney's Relief Acts of 1857, 1874, and 1884, and to make new provisions regulating the admission of Attorneys and Solicitors of the Superior Courts in the Colonies and British India as Solicitors of the Supreme Court in England.

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, as follows:—

1. Any subject of the British Crown who has been or shall hereafter be, after service of Articles of Clerkship and examination, duly admitted and enrolled as an Attorney or Solicitor be entitled to be admitted and enrolled a Solicitor of the Supreme Court in England, without service of Articles of Clerkship in England, on—

- production of his Certificate of Admission as Attorney or Solicitor of such Court, or of other evidence of such admission, to the satisfaction of the Master of the Rolls; and
- production of a Certificate of recent date signed by the Chief Justice or other Chief Judge of such Court, or some officer or person appointed by such Chief Justice or Chief Judge, in the form or to the effect specified in the first schedule to this Act; and
- proof of his identity to the satisfaction of the Master of the Rolls; and
- passing such examination as shall from time to time be agreed between such Chief Justice or Chief Judge and the Council of the Incorporated Law Society and approved by the Master of the Rolls, or, if so agreed, between such Chief Justice or Chief Judge and such Council, and so approved as aforesaid, without examination; and
- payment of stamp duties and fees equal in amount to the stamp duties and fees payable on admission by a person articulated in England.

2. (1) This Act shall apply to each of the Colonies and parts of British India to which the Colonial Attorneys' Relief Acts applied at the date of the passing of this Act on proof to the satisfaction of a Secretary of State, by report of the Council of the Incorporated Law Society, approved by the Master of the Rolls, that any Solicitor of the Supreme Court in England will be admitted as a Solicitor or Attorney of the Supreme or High Court of such Colony or part of British India without service of Articles on—

- production of his Certificate of Admission in England or other evidence of such admission to the satisfaction of the Chief Justice or Chief Judge of such Court; and
- production of a Certificate of recent date signed by the Master of the Rolls, or by some officer or person appointed by the Master of the Rolls, to the effect that he is still a Solicitor of the Supreme Court, and that no charge or accusation has been established against him in his professional character or otherwise affecting his fair fame and repute; and
- proof of his identity to the satisfaction of the Chief Justice or Chief Judge of such Court; and
- passing such examination and satisfying such other reasonable requirements as shall from time to time be agreed between the Chief Justice or Chief Judge of such Court and the Council of the Incorporated Law Society approved by the Master of the Rolls, or, if so agreed, between such Chief Justice or Chief Judge and such Council, and so approved as aforesaid, without examination or other requirements; and

20 & 21
Vict. c. 39;
37 & 38
Vict. c. 41;
47 & 48
Vict. c. 24.

Admission of
Colonial and
Indian
Attorneys
and Solicitors
as Solicitors
of Supreme
Court in
England.

Application
of Act.

(c) payment of stamp duties and fees not exceeding in amount the stamp duties and fees payable on admission by a person articulated in such Colony or part of British India.

3. It shall be lawful for Her Majesty by Order in Council to direct that this Act shall apply to any Colony or part of British India on the application of the Chief Justice or other Chief Judge of the Supreme or High Court of such Colony or part of British India, and on proof to the satisfaction of a Secretary of State, by report of the Council of the Incorporated Law Society, approved by the Master of the Rolls—

(a) that the system of jurisprudence administered by such Court is founded on or assimilated to the common law and principles of equity administered in England; and

(b) that any Solicitor of the Supreme Court in England will be admitted as an Attorney or Solicitor of such Court (without service of Articles) on the terms and conditions specified in Section 2 hereof.

4. It shall be lawful for Her Majesty by Order in Council to direct that this Act shall cease to apply to any Colony or part of British India, and the same shall thereupon cease to apply to such Colony or part of British India.

5. For the purposes of this Act the expression "Colony" means in the case of Canada and any other part of Her Majesty's dominions possessing both a central legislature and local legislatures, each province or other division under a local legislature.

6. This Act may be cited as "The Colonial and Indian Solicitors Act, 1894."

7. The Acts specified in the second Schedule hereto are hereby repealed, but without prejudice to any status right or privilege acquired or to anything done thereunder; and any application or proceeding pending thereunder at the date of the passing of this Act may be carried through and completed as if this Act had not been passed.

FIRST SCHEDULE.

FORM OF CERTIFICATE.

I certify that [name of person] is a subject of the British Crown, and that he was, after service of Articles of Clerkship and examination, duly admitted and enrolled as an Attorney [or] Solicitor of the Court of [style of Court] on the day of ; that he still remains so enrolled; and that no charge or accusation has been established or is pending against him in his professional character or otherwise affecting his fair fame and repute.

SECOND SCHEDULE.

ACTS REPEALED.

Session and Chapter.	Title and Short Title.
20 & 21 Vict. c. 39 (1857)	The Colonial Attorneys' Relief Act.
37 & 38 Vict. c. 41 (1874)	An Act to amend the Colonial Attorneys' Relief Act.
47 & 48 Vict. c. 24 (1884)	The Colonial Attorneys' Relief Act Amendment Act, 1884.

From S. W. GRIFFITH, Esq., Chief Justice, to the Honorable Sir T. McILWRAITH, K.C.M.G., Chief Secretary, Treasury Buildings, Brisbane, dated Brisbane, the 19th May 1893.

With reference to previous correspondence between my predecessor Sir Charles Lilley and His Excellency the Governor, I have the honour, on behalf of the Judges of the Supreme Court, to request that you will be good enough to move His Excellency to submit, for the consideration of the Secretary of State for the Colonies, the following observations respecting the present state of the law regulating the admission of Solicitors of the Superior Courts of the United Kingdom to practise in Queensland and the admission of Solicitors of the Supreme Court of Queensland to practise in those Courts.

2. By the Colonial Attorneys' Relief Act (1857) Attorneys and Solicitors of certain of Her Majesty's Colonies were allowed to be admitted as Attorneys and Solicitors of the Superior Courts of England subject to the conditions:

- (1) That the Attorney should first pass an examination to test his capacity and fitness;
- (2) that he should produce a certificate from the Presiding Judge of the Colony attesting his status and reputation, and setting forth the amount of stamps paid on his Articles of Clerkship and admission in the Colony; and

Definition
of "Colony"
for purposes
of Act.

Short Title.

Repeal of
Colonial
Attorneys'
Relief Acts.

(3) that he should make an affidavit that he is resident in England and has ceased for twelve months to practise in any Colony.

3. The application of this Act is limited to Colonies to which it may be extended by Order in Council; and an Order in Council is not to be made except upon application by the Governor, nor unless the system of jurisprudence administered in the Colony; and the qualification for admission of Attorneys there prescribed, correspond to the conditions laid down in Section 3 of the Act, which are, in effect, that the Colonial system of jurisprudence is founded on or assimilated to that of England, and that service under Articles of Clerkship for five years at least is required previous to admission from all persons not previously admitted as Attorneys or Solicitors of the Superior Courts of England. The further condition is also imposed that the Colony is one in which the admission of Attorneys and Solicitors of the Superior Courts of England is allowed on production of their Certificates of admission in the England Courts without service or examination in the Colony.

4. By the Act 37, 38 Victoria c. 41 (1874) the Colonial Attorneys' Relief Act was amended by providing that the condition requiring a Colonial Attorney applying for admission in England to pass an examination should not apply to Colonial Attorneys who had been in actual practice for seven years in the Colony and had served under articles for five years and passed an examination previous to admission in the Colony.

5. By the Colonial Attorneys' Relief Act Amendment Act 1884, the principal Act was further amended by authorizing Her Majesty to make an Order in Council bringing the Act into operation with respect to a Colony if the Colonial Court admits English Attorneys or Solicitors without further examination except as to the laws of the Colony so far as they differ from the laws of England, and this although persons may in certain cases be admitted in the Colony without possessing all the qualifications or fulfilling the conditions prescribed in section 3 of the principal Act. But the Act is in any case only to apply to Colonial Attorneys who have served under Articles for five years, have passed an examination before admission, and have been in actual practice in the Colony for seven years at least.

I observe in passing that the object of this last amendment was probably to meet the case of Colonies in which (as in Queensland) associates to the Judges of the Supreme Court are allowed to be admitted as Solicitors after holding that office for five years and passing the prescribed examination, the privilege of admission as English Solicitors being however not extended to gentlemen so obtaining their Colonial admission.

6. The present conditions on which an Order in Council can be made enabling a Colonial Solicitor to obtain admission in England appear therefore to be as follows:—

1. The system of jurisprudence of the Colony must be founded on or assimilated to that of England.
2. They must have served for five years under Articles and have passed an examination before admission in the Colony.
3. They must either pass an examination before admission in England or prove that they have been in actual practice for seven years in the Colony.
4. They must produce a certificate of fitness from the Presiding Judge of the Colonial Court.
5. An Order in Council cannot be made unless English Solicitors are admitted in the Colony on production of their Certificates of Admission in England without further service and without examination except in Colonial Law.

AND FURTHER —

6. In the case of Colonies in which Solicitors may in certain cases be admitted in the Colony without possessing all the qualifications prescribed by the principal Act, the Solicitors must have been in actual practice in the Colony for seven years.

7. So far as I am aware no Order in Council has been made extending the operation of the Colonial Attorneys' Relief Act to Queensland, and it appears that under the existing rules of the Supreme Court of this Colony, to which I proceed to invite your attention, it is not now competent for Her Majesty to make such an order.

8. By the *Regulæ Generales* of 12th December 1879, of which I enclose a copy, it was provided (R. R. 15, 16) that Solicitors of any of the Superior Courts of Record of Great Britain or Ireland might be admitted in Queensland on production of their Certificates of Admission and compliance with certain formalities.

Under these rules there was apparently no difficulty in the way of making an Order in Council extending the operation of the Colonial Attorneys' Relief Act to Queensland.

9. But by the *Regulæ Generales* of 10th March 1891, of which I also enclose a copy, it was provided—

- (1) that from and after the first day of January 1893, the provisions of the *Regulæ Generales* of the twelfth of December 1879, relating to the reciprocity of admission of Solicitors of the Supreme Court of any of the Australasian Colonies, should apply to the admission of Solicitors of the Queen's Superior Courts of Record in Great Britain or Ireland (R., etc.); and
- (2) that every person applying to practise as a Solicitor of the Supreme Court who should, before or during his service under Articles, have taken the degree of Bachelor of Law or of Arts in any of the Universities of the United Kingdom or the Australian Colonies (such degree not being honorary) might be admitted as such Solicitor after serving under Articles for the full term of three years in lieu of the five years' service heretofore required. (R. 8).

10. The effect of the first of these rules which came into operation on the first of January last (but the operation of which has by a *Regula Generalis* of 30th March 1893 been excluded as to Solicitors of the Courts of the United Kingdom who have been resident in Queensland since 10th March 1891) is that English Solicitors can only be admitted in Queensland upon fulfilling the same conditions as are prescribed for the admission of Queensland Solicitors in England, and that Solicitors of the Superior Courts of Scotland and Ireland which do not admit Queensland Solicitors cannot be admitted at all.

It appears further to follow that as the condition prescribed for the admission of English Solicitors in Queensland go beyond those mentioned in the Statute of 1898, it is no longer competent for the privilege of admission in England to be extended to Queensland Solicitors.

11. I notice incidentally that under the English Statutes, even if this difficulty were out of the way, Queensland Solicitors, who being graduates in Law or Arts of a University of the United Kingdom or the Australian Colonies, have obtained admission after the shorter time of service of three years under Articles (a privilege granted also in England) are entirely debarred from the privilege of being admitted as Solicitors in England.

12. The Judges of this Court are of course fully aware that the condition of things to which I have invited your attention can only be removed by legislation of the Parliament of the United Kingdom. But having regard to the importance of the subject, the Judges hope that His Excellency in bringing the matter under the notice of the Secretary of State may be able to urge that the attention of the Incorporated Law Society in England, the Incorporated Society of Law Agents in Scotland, and the Incorporated Law Society of Ireland, may be directed to it, in order that satisfactory steps may be taken at an early date with the object of allowing reciprocity of admission of members of that branch of the legal profession between the United Kingdom and Queensland, subject to such reasonable conditions as to service under Articles or otherwise as may be agreed upon.

13. The present condition of things under which the right of admission is entirely denied cannot be considered satisfactory either to the members of the profession in the United Kingdom who may desire to emigrate, or to those of the profession in Queensland who may desire to claim a right, as citizens of the Empire to carry on their lawful calling in the United Kingdom, or to the public at large, for whose benefit the rules relating to the legal profession are understood to exist.

ORDER—dated 16th February 1895, No. 349, Judicial.

Communicated to the Hon'ble the Judges of the High Court, the Government Solicitor, the Attorneys' Association and the Madras High Court Vakils' Association with a request that they will favour Government with their opinion.

2. The correspondence will also be published in the *Fort St. George Gazette*.

(True Extract.)

Chief Secretary.

To the Hon'ble the Chief Justice, with C.L.

" Government Solicitor.

" Honorary Secretary of the Attorneys' Association.

" Secretary, Madras High Court Vakils' Association.

Gazette.

Ed. A. Grubert,

Govt. of {1895} Madras.
JUDICIAL.

Issued

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Encl.

G.O., 16th February 1895, No. 349.

FEBRUARY.

Attorneys and Solicitors.

Inviting the opinions of the Hon'ble the Judges of the High Court, the Government Solicitor, the Attorneys' Association and the Madras High Court Vakils' Association on the draft Bill to deal with the question of reciprocity in the admission of — to practise as between the United Kingdom and India and the Colonies.

No. 131

From

H. Lusson, Esq.,

Under Secy. to the Govt. of India.

To

The Chief Secretary to the Government of Madras.

Home Department

(Judicial)

Calcutta, the 25th January 1895.

Sir,

I am directed to forward a copy of a Despatch from No. 45 Judicial dated the 1st November 1894. the Secretary of State

noted in the margin, on

the subject of a draft Bill to deal with the question of reciprocity in the admission of Attorneys and Solicitors to practice as between the United Kingdom and the Colonies and India, and to say that the Governor General in Council will be glad to be furnished with the views of the Hon'ble the Chief Justice and Judges and of the leading Attorneys of the High Court at Madras on the subject.

I have the honour to be,

Sir,

Your most obedient Servant,

H. Lusson

Under Secretary to the Govt. of India.

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You may remember that by a letter, dated the 19th of December 1893, I informed you that the Council of the Incorporated Law Society proposed to submit, for the consideration of the Secretary of State for the Colonies, the Draft of a Bill to deal with the question of reciprocity in the admission of Solicitors between the Colony of Queensland and the United Kingdom.

Questions have also arisen in the Colony of Victoria as to the admission of English Solicitors to practise in that Colony; and as the present Acts dealing with the admission of Colonial Solicitors to practise in England are in many respects somewhat confusing and unsatisfactory, it is considered advisable to proceed by a Bill which will deal with all the Colonies and would consolidate the existing Acts and remedy their defects in the directions indicated by the Chief Justice of Queensland, and I now enclose for His Lordship's consideration a Bill which has been prepared by this Society to carry that object into effect.

Draft of a Bill to regulate the admission of Attorneys and Solicitors of the Superior Courts in the Colonies and British India as Solicitors of the Supreme Court of Judicature in England.

WHEREAS it is desirable to repeal the Colonial Attorneys' Relief Acts of 1857, 1874, and 1884, and to make new provisions regulating the admission of Attorneys and Solicitors of the Superior Courts in the Colonies and British India as Solicitors of the Supreme Court in England.

Be it therefore enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, as follows:—

1. Any subject of the British Crown who has been or shall hereafter be, after service of Articles of Clerkship and examination, duly admitted and enrolled as an Attorney or Solicitor of any Superior Court in any Colony or part of British India to which this Act shall apply shall be entitled to be admitted and enrolled a Solicitor of the Supreme Court in England, without service of Articles of Clerkship in England, on—

- (a) production of his Certificate of Admission as Attorney or Solicitor of such Court, or of other evidence of such admission, to the satisfaction of the Master of the Rolls; and
- (b) production of a certificate of recent date signed by the Chief Justice or other Chief Judge of such Court, or some officer or person appointed by such Chief Justice or Chief Judge, in the form or to the effect specified in the first schedule to this Act; and
- (c) proof of his identity to the satisfaction of the Master of the Rolls; and
- (d) passing such examination as shall from time to time be agreed between such Chief Justice or Chief Judge and the Council of the Incorporated Law Society and approved by the Master of the Rolls, or, if so agreed, between such Chief Justice or Chief Judge and such Council, and so approved as aforesaid, without examination; and
- (e) payment of stamp duties and fees equal in amount to the stamp duties and fees payable on admission by a person articulated in England.

2. (1) This Act shall apply to each of the Colonies and parts of British India to which the Colonial Attorneys' Relief Acts applied at the date of the passing of this Act on proof to the satisfaction of a Secretary of State, by report of the Council of the Incorporated Law Society, approved by the Master of the Rolls, that any Solicitor of the Supreme Court in England will be admitted as a Solicitor or Attorney of the Supreme or High Court of such Colony or part of British India without service of Articles on—

- (a) production of his Certificate of Admission in England or other evidence of such admission to the satisfaction of the Chief Justice or Chief Judge of such Court; and
- (b) production of a Certificate of recent date signed by the Master of the Rolls, or by some officer or person appointed by the Master of the Rolls, to the effect that he is still a Solicitor of the Supreme Court, and that no charge or accusation has been established or is pending against him in his professional character or otherwise affecting his fair fame and repute; and
- (c) proof of his identity to the satisfaction of the Chief Justice or Chief Judge of such Court; and
- (d) passing such examination and satisfying such other reasonable requirements as shall from time to time be agreed between the Chief Justice or Chief Judge of such Court and the Council of the Incorporated Law Society approved by the Master of the Rolls, or, if so agreed, between such Chief Justice or Chief Judge and such Council, and so approved as aforesaid, without examination or other requirements; and
- (e) payment of stamp duties and fees not exceeding in amount the stamp duties and fees, payable on admission by a person articulated in such Colony or part of British India.

3. It shall be lawful for Her Majesty by Order in Council to direct that this Act shall apply to any Colony or part of British India on the application of the Chief Justice or other Chief Judge of the Supreme or High Court of such Colony or part of British India, and on proof to the satisfaction of a Secretary of State, by report of the Council of the Incorporated Law Society, approved by the Master of the Rolls—

- (a) that the system of jurisprudence administered by such Court is founded on or assimilated to the common law and principles of equity administered in England; and
- (b) that any Solicitor of the Supreme Court in England will be admitted as an Attorney or Solicitor of such Court (without service of Articles) on the terms and conditions specified in Section 2 hereof.

4. It shall be lawful for Her Majesty by Order in Council to direct that this Act shall cease to apply to any Colony or part of British India, and the same shall thereupon cease to apply to such Colony or part of British India.

5. For the purposes of this Act the expression "Colony" means in the case of Canada and any other part of Her Majesty's dominions possessing both a central legislature and local legislatures, each province or other division under a local legislature.

6. This Act may be cited as "The Colonial and Indian Solicitors Act, 1894."

7. The Acts specified in the Second Schedule hereto are hereby repealed, but without prejudice to any status right or privilege acquired or to anything done thereunder; and any application or proceeding pending thereunder at the date of the passing of this Act may be carried through and completed as if this Act had not been passed.

Definition of "Colony" for purposes of Act.

Short Title.

Repeal of Colonial Attorneys' Relief Acts.

FIRST SCHEDULE.

FORM OF CERTIFICATE.

I certify that [name of person] is a subject of the British Crown, and that he was, after service of Articles of Clerkship and examination, duly admitted and enrolled as an Attorney [or and] Solicitor of the Court of [style of Court] on the day of ; that he still remains so enrolled; and that no charge or accusation has been established or is pending against him in his professional character or otherwise affecting his fair fame and repute.

SECOND SCHEDULE.

ACTS REPEALED.

Session and Chapter.	Title and Short Title.
20 & 21 Vict. c. 39 (1857)	The Colonial Attorneys' Relief Act.
37 & 38 Vict. c. 41 (1874)	An Act to Amend the Colonial Attorneys' Relief Act
47 & 48 Vict. c. 24 (1884)	The Colonial Attorneys' Relief Act Amendment Act 1884.

Dated Supreme Court House, Brisbane, the 19th May 1893.

From—S. W. GRIFFITH, Esq., Chief Justice.

To—The Honourable Sir T. McILWRAITH, K.C.M.G., Chief Secretary, Treasury Buildings, Brisbane.

With reference to previous correspondence between my predecessor Sir Charles Lilley and His Excellency the Governor, I have the honour, on behalf of the Judges of the Supreme Court, to request that you will be good enough to move His Excellency to submit, for the consideration of the Secretary of State for the Colonies, the following observations respecting the present state of the law regulating the admission of Solicitors of the Superior Courts of the United Kingdom to practise in Queensland and the admission of Solicitors of the Supreme Court of Queensland to practise in those Courts.

2. By the Colonial Attorneys' Relief Act (1857) Attorneys and Solicitors of certain of Her Majesty's Colonies were allowed to be admitted as Attorneys and Solicitors of the Superior Courts of England subject to the conditions:

1. That the Attorney should first pass an examination to test his capacity and fitness.

2. That he should produce a certificate from the Presiding Judge of the Colony attesting his status and reputation, and setting forth the amount of stamps paid on his Articles of Clerkship and admission in the Colony; and
3. That he should make an affidavit that he is resident in England and has ceased for twelve months to practise in any Colony.

3. The application of this Act is limited to Colonies to which it may be extended by Order in Council; and an Order in Council is not to be made except upon application by the Governor, nor unless the system of jurisprudence administered in the Colony; and the qualification for admission of Attorneys there prescribed, correspond to the conditions laid down in Section 3 of the Act, which are, in effect, that the Colonial system of jurisprudence is founded on or assimilated to that of England, and that service under Articles of Clerkship for five years at least is required previous to admission from all persons not previously admitted as Attorneys or Solicitors of the Superior Courts of England. The further condition is also imposed that the Colony is one in which the admission of Attorneys and Solicitors of the Superior Courts of England is allowed on production of their Certificates of Admission in the England Courts without service or examination in the Colony.

4. By the Act 37, 38 Victoria c. 41 (1874) the Colonial Attorneys' Relief Act was amended by providing that the condition requiring a Colonial Attorney applying for admission in England to pass an examination should not apply to Colonial Attorneys who had been in actual practice for seven years in the Colony and had served under articles for five years and passed an examination previous to admission in the Colony.

5. By the Colonial Attorneys' Relief Act Amendment Act 1884, the principal Act was further amended by authorizing Her Majesty to make an Order in Council bringing the Act into operation with respect to a Colony if the Colonial Court admits English Attorneys or Solicitors without further examination except as to the laws of the Colony so far as they differ from the laws of England, and this although persons may in certain cases be admitted in the Colony without possessing all the qualifications or fulfilling the conditions prescribed in section 3 of the principal Act. But the Act is in any case only to apply to Colonial Attorneys who have served under Articles for five years, have passed an examination before admission, and have been in actual practice in the Colony for seven years at least.

I observe in passing that the object of this last amendment was probably to meet the case of Colonies in which (as in Queensland) associates to the Judges of the Supreme Court are allowed to be admitted as Solicitors after holding that office for five years and passing the prescribed examination, the privilege of admission as English Solicitors being however not extended to gentlemen so obtaining their Colonial admission.

6. The present conditions on which an Order in Council can be made enabling a Colonial Solicitor to obtain admission in England appear therefore to be as follows:—

1. The system of jurisprudence of the Colony must be founded on or assimilated to that of England.
2. They must have served for five years under Articles and have passed an examination before admission in the Colony.
3. They must either pass an examination before admission in England or prove that they have been in actual practice for seven years in the Colony.
4. They must produce a certificate of fitness from the Presiding Judge of the Colonial Court.
5. An Order in Council cannot be made unless English Solicitors are admitted in the Colony on production of their Certificates of Admission in England without further service and without examination except in Colonial Law.

AND FURTHER —

6. In the case of Colonies in which Solicitors may in certain cases be admitted in the Colony without possessing all the qualifications prescribed by the principal Act, the Solicitors must have been in actual practice in the Colony for seven years.

7. So far as I am aware no Order in Council has been made extending the operation of the Colonial Attorneys Relief Act to Queensland, and it appears that under the existing rules of the Supreme Court of this Colony, to which I proceed to invite your attention, it is not now competent for Her Majesty to make such an order.

8. By the Regulæ Generales of 12th December 1879, of which I enclose a copy, it was provided (R. R. 15, 16.) that Solicitors of any of the Superior Courts of Record of Great Britain or Ireland might be admitted in Queensland on production of their Certificates of Admission and compliance with certain formalities.

Under these rules there was apparently no difficulty in the way of making an Order in Council extending the operation of the Colonial Attorneys' Relief Act to Queensland.

9. But by the Regulæ Generales of 10th March 1891, of which I also enclose a copy, it was provided—

- (1) that from and after the first day of January 1893, the provisions of the Regulæ Generales of the twelfth of December 1879, relating to the reciprocity of admission of Solicitors of the Supreme Court of any of the Australasian Colonies, should apply to the admission of Solicitors of the Queen's Superior Courts of Record in Great Britain or Ireland (R. etc.); and
- (2) that every person applying to practise as a Solicitor of the Supreme Court who should, before or during his service under Articles, have taken the degree of Bachelor of Law or of Arts in any of the Universities of the United Kingdom or the Australian Colonies (such degree not being honorary) might be admitted as such Solicitor after serving under Articles for the full term of three years in lieu of the five years' service heretofore required. (R. 8)

10. The effect of the first of these rules which came into operation on the first of January last (but the operation of which has by a Regula Generalis of 30th March 1893 been excluded as to Solicitors of the Courts of the United Kingdom who have been resident in Queensland since 10th March 1891) is that English Solicitors can only be admitted in Queensland upon fulfilling the same conditions as are prescribed for the admission of Queensland Solicitors in England, and that Solicitors of the Superior Courts of Scotland and Ireland which do not admit Queensland Solicitors cannot be admitted at all.

It appears further to follow that as the condition prescribed for the admission of English Solicitors in Queensland go beyond those mentioned in the Statute of 1884, it is no longer competent for the privilege of admission in England to be extended to Queensland Solicitors.

11. I notice incidentally that under the English Statutes, even if this difficulty were out of the way, Queensland Solicitors, who being graduates in Law or Arts of a University of the United Kingdom or the Australian Colonies, have obtained admission after the shorter time of service of three years under Articles (a privilege granted also in England) are entirely debarred from the privilege of being admitted as Solicitors in England.

12. The Judges of this Court are of course fully aware that the condition of things to which I have invited your attention can only be removed by legislation of the Parliament of the United Kingdom. But having regard to the importance of the subject, the Judges hope that His Excellency in bringing the matter under the notice of the Secretary of State may be able to urge that the attention of the Incorporated Law Society in England, the Incorporated Society of Law Agents in Scotland, and the Incorporated Law Society of Ireland, may be directed to it, in order that satisfactory steps may be taken at an early date with the object of allowing reciprocity of admission of members of that branch of the legal profession between the United Kingdom and Queensland, subject to such reasonable conditions as to service under Articles or otherwise as may be agreed upon.

13. The present condition of things under which the right of admission is entirely denied cannot be considered satisfactory either to the members of the profession in the United Kingdom who may desire to emigrate, or to those of the profession in Queensland who may desire to claim a right, as citizens of the Empire to carry on their lawful calling in the United Kingdom, or to the public at large, for whose benefit the Rules relating to the legal profession are understood to exist.

C. No.

599 of 95

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[Signature]

FOR ORDER 16 Feb. 95, No. 349

PS.

Communicated to the
Hon the Judges of the High
Court, ~~the Hon the Advocate
General, the Government
Pleader, the Govt. Solicitor,
the Attorneys' Association &
the Madras High Court
Bar's Assn~~ with a request
that they will favor Govt
with their Opinion. ~~on the
draft Bill as an early day.~~

2. The correspondence will also be
published in the Fort St. George Gazette.

The Hon the C.J. wrote to
the Govt. Solicitor 15/2/95
The Govt. Pleader 14/2
The Hon Secy of the Attorneys' Assn 6
The Secy Madras B.C. Bar's Assn 6
Gazette 5/3 Suppl
13/2/95. *[Signature]*

[Signature]
See that these
are correctly quoted.
Yes
15/2/95

Note Perhaps Govt might
wish to consult
some of the leading
Barristers of Madras.

It does not affect
Barristers & I don't think
there is any need to refer to
any of them. *[Signature]*

Attorney's & Solicitors —

Neaf's Bill — in the
reciprocity in the admission.

CS
1/10

(7/10 1891)

First copy sent to Press.

Returned for signature.

Despatched in print.

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO G., No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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