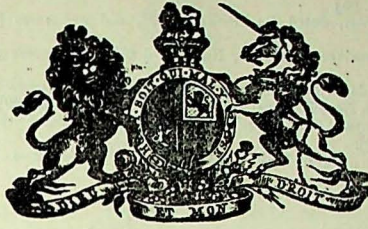


THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 12TH MARCH 1896.

Separate paging is given to this Part in order that it may be filed as a separate compilation

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Legal Practitioners Act, 1879, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th March 1896:—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Legal

Practitioners Act, 1879, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit, this our Report, with the Bill as amended by us annexed thereto.

From Mr. Rustam M. Mehr Vaid, Vakil, High Court, Bombay, dated 6th September 1895, and enclosure [Papers No. 1].

Memorandum by Mr. P. R. Desai, Pleader, District Court, Ratnágiri, dated 9th October 1895 [Paper No. 2].

From Chief Commissioner, Ajmere-Merwara, No. 1405—690-VI., dated 22nd November 1895 [Paper No. 3].

From Government, Bombay, No. 8211, dated 26th September 1895, and enclosures [Papers No. 4].

Petition of certain Revenue Agents [Paper No. 5].
Telegram from Agent to Governor General in Baluchistan, No. 405, dated 4th December 1895 [Paper No. 6].

From Government, Madras, No. 2381, dated 19th November 1895, and enclosures [Papers No. 7].

From Chief Commissioner, Burma, No. 57-L.—20, dated 3rd December 1895, and enclosures [Papers No. 8].

From Chief Commissioner, Assam, No. 196-L. & L.—5615-J., dated 7th December 1895, and enclosures [Papers No. 9].

From Resident, Hyderabad, No. 428, dated 27th November 1895, and enclosures [Papers No. 10].

From Government, Madras, No. 2501, dated 3rd December 1895, and enclosures [Papers No. 11].

From Chief Commissioner, Central Provinces, No. 9221, dated 14th December 1895, and enclosures [Papers No. 12].

From Government, North-Western Provinces and Oudh, No. 1036—VI-706-B., dated 21st December 1895, and enclosure [Papers No. 13].

From British Indian Association, Calcutta, dated 11th December 1895 [Paper No. 14].

From Chief Commissioner, Coorg, No. 2123, dated 30th December 1895 [Paper No. 15].

From Government, North-Western Provinces and Oudh, No. 26—VII-760-B., dated 8th January 1896, and enclosure [Papers No. 16].

From ditto, No. 55—VII-760-B., dated 13th January 1896, and enclosure [Papers No. 17].

From ditto, No. 25—VII-760-B., dated 8th January 1896, and enclosure [Papers No. 18].

From Government, Madras, No. 75, dated 11th January 1896, and enclosures [Papers No. 19].

From Members of the Bar of the Kistna District, dated 18th January 1896 [Paper No. 20].

From Government, Madras, No. 61, dated 8th January 1896, and enclosures [Papers No. 21].

From High Court, Calcutta, No. 163, dated 24th January 1896, and enclosures [Papers No. 22].

From Chairman, Town Hall Meeting, Calcutta, dated 23rd January 1896 [Paper 23].

From Home Department, No. 127, dated 23rd January 1896, and enclosures [Papers No. 24].

2. The opinion, at which we have unanimously arrived, is that the only person who ought to be punished under the Legal Practitioners Act, 1879, with a view to the suppression of the unprofessional practices aimed at by the Bill, is the legal practitioner who, out of the fees received from the client, remunerates, or promises to remunerate, the intermediary for introducing that client's business to him. Any private arrangement between the client and the tout,

From Government, North-Western Provinces and Oudh, No. 135—VII-760-B, dated 31st January 1896, and enclosures [Papers No. 25].

From Government, Bengal, No. 595-J., dated 1st February 1896, and enclosures [Papers No. 26].

From Government, North-Western Provinces and Oudh, No. 171, dated 14th February 1896, and enclosures [Papers No. 27].

From Government, Madras, No. 265, dated 8th February 1896, and enclosure [Papers No. 28].

From District Association, Cuddapah, No. 271, dated 9th February 1896 [Paper No. 29].

From Babu Upendranath Mukhopadhyay, Vakil, Judge's Court, 24-Parganas, dated 17th February 1896, and enclosure [Papers No. 30].

From Government, Punjab, No. 267, dated 25th February 1896, and enclosures [Papers No. 31].

with which the legal practitioner has nothing whatever to do, ought not *prima facie*, to be interfered or dealt with by the law relating to legal practitioners. Acting on the principle thus enunciated we have subjected the Bill to

considerable revision.

3. We have in the first place (clause 1 of the amended Bill) proposed to insert in the Act a definition of the expression "touts," bringing within that category only persons who procure the employment in any legal business of any legal practitioner in consideration of any remuneration moving from such practitioner, and we have altered the new section drawn in the original Bill to take the place of section 13 of the Act so as to render a pleader or mukhtár liable to suspension or dismissal by the High Court if he accepts any employment in any legal business through such a person. We have also, accepting a suggestion recently made by the Calcutta High Court, proposed an additional clause in section 13 of the Act expressly declaring that any pleader or mukhtár who, directly or indirectly, procures or attempts to procure the employment or himself as such pleader or mukhtár through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, shall be liable to the like penalties.

4. The opportunity has next been taken to suggest the amendment of that part of section 13 of the Act which admits of the taking of instructions from the "private servants" of a party. If by the expression "private servants" is meant menial servants, it seems to us that these are the very persons by whom professional men ought not to be instructed, and we think that the Legislature should not expressly recognize the practice, if indeed, it exists, of receiving instructions from such a source. On the other hand we can see no objection to the receipt of instructions from a respectable servant authorised by his employer to give them; nor do we appreciate the reason for debarring relatives and friends from affording assistance in this way except in this way except in the case of parties who are *pardanashin* women or unable themselves to take action. We have proposed, therefore, to omit the proviso to the section in question and to recast clause (a) so as to allow pleaders and mukhtárs to be instructed by any "servant, relative or friend authorised by the party" to act for him in this behalf.

5. We have at the same time been impressed by the necessity, represented from several quarters, of providing for the exercise, in the interests of the public, of some measure of direct control over persons who are notoriously touts; and we think that the practice, which has in some cases actually been adopted, of publishing lists of persons who are touts and to be avoided as such, and of excluding them from the precincts of the Courts, should be legalised. With this object we have drafted a new section (see clause 4 of the Bill as amended) to take power for the superior Courts to proceed on these lines, subject to suitable safeguards.

6. In the case of revenue agents, the Bill has been similarly recast, and we have determined to recommend that, if these proposals be accepted, section 36 of the Act may be removed from the Statute-book, and the scheme of extending the powers of District and Sessions Judges and District Magistrates and Collectors in the direction of the summary suspension and dismissal of legal practitioners may with safety be abandoned.

7. The publication ordered by the Council has been made as follows:—

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India...	24th August 1895.
Fort Saint George Gazette ...	10th September 1895.
Bombay Government Gazette ...	29th August 1895.
Calcutta Gazette ...	4th September 1895.
North-Western Provinces and Oudh Government Gazette ...	31st August 1895.
Punjab Government Gazette ...	29th August 1895.
Central Provinces Gazette ...	31st August 1895.
Barma Gazette ...	7th September 1895.
Assam Gazette ...	14th September 1895.
Coorg District Gazette ...	1st October 1895.
Sind Official Gazette ...	19th September 1895.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras ...	Telugu ...	15th October 1895.
	Hindustani ...	15th October 1895.
	Kanarese ...	15th October 1895.
	Malayalam ...	15th October 1895.
	Tamil ...	22nd October 1895.
Bombay ...	Marathi ...	21st November 1895.
	Gujarathi ...	21st November 1895.
	Kanarese ...	21st November 1895.

Bengal ...	...	...	Bengali ...	...	1st October 1895.
			Hindi ...	...	15th October 1895.
			Uriya ...	...	17th October 1895.
North-Western Provinces and Oudh	...	...	Urdu ...	...	14th September 1895.
Punjab ...	...	...	Urdu ...	...	26th September 1895.
Central Provinces ...	...	...	Marathi ...	...	2nd October 1895.
Burma ...	...	...	Burmese ...	...	28th September 1895.
Assam ...	...	...	Bengali ...	...	12th October 1895.
Coorg ...	...	...	Kanarese ...	...	1st November 1895.
Sindh ...	...	...	Sindhi ...	...	19th September 1895.

8. The alterations, great as they are, which we have made, are all intended to remove the objections to the Bill elicited since its circulation and to be in consonance with the spirit of the criticisms which it has called forth. It would, we think, be a misfortune longer to delay the amendment of an Act, the serious defects of which are admitted on all sides; and under the circumstances we consider that the Bill need not be republished, and recommend that it be passed as now amended.

(Signed) ALEX. EDW. MILLER.

(„) J. WOODBURN.

(„) MOHINY MOHUN ROY.

(„) P. ANANDA CHARLU.

(„) G. H. P. EVANS.

The 4th March 1896.

No. II.

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:—

Addition to section 3, Act XVIII, 1879. **1. To section 3 of the said Act the following shall be added, namely:—**

“ ‘Tout’ means a person who procures the employment in any legal business of any legal practitioner in consideration of any remuneration moving from such practitioner.”

2. For section 13 of the said Act the following shall be substituted, namely:—

“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—

- (a) who takes instructions in any case except from the party on whose behalf he is retained, or some person who is the recognized agent of such party within the meaning of the Code of Civil Procedure, or some servant, relative or friend authorized by the party to give such instructions, 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 out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other Pleader or Mukhtár, or

(d) who, directly or indirectly, procures or attempts to procure the employment of himself as such Pleader or Mukhtár through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, or

(e) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36, or

(f) for any other reasonable cause.

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 such inquiry as it thinks fit, suspend or dismiss any Revenue Agent holding a certificate as aforesaid—

(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, out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other Revenue Agent, or

(c) who, directly or indirectly, procures or attempts to procure the employment of himself as such Revenue Agent through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, or

(d) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36, or

(e) for any other reasonable cause.

XVIII of 1879.

XIV of 1882.

Substitution of new section for section 36, Act XVIII, 1879.

namely:—

“36. (1) Every High Court, District Judge, Sessions Judge, District Magistrate and Presidency Magistrate, every Revenue officer, not being below the rank of a Collector of a District, and the Chief Judge of every Presidency Small Cause Court (each as regards their or his own Court and the Courts, if any, subordinate thereto) may frame and publish lists of persons proved to their or his satisfaction, by evidence of general repute of otherwise, habitually to act as touts, and may, from time to time, alter and amend such lists.

4. For section 36 of the said Act the following shall be substituted,

“(2) No person's name shall be included in any such list until he shall have had an opportunity of showing cause against such inclusion.

“(3) A copy of every such list shall be kept hung up in every Court to which the same relates.

“(4) The Court or Judge may, by general or special order, exclude from the precincts of the Court any person whose name is included in any such list.

“(5) Every person whose name is included in any such list, shall be deemed to be proclaimed as a tout within the meaning of section 13, clause (c), and section 22, clause (d).”

S. HARVEY JAMES,
Secretary to the Government of India.