

LEGAL PRACTITIONERS ACT, 1879

18 of 1879

[29th October, 1879]

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An Act to consolidate and amend the law relating to Legal Practitioners. Preamble Whereas it is expedient to consolidate and amend the law relating to Legal Practitioners in b[certain Provinces, and empower the Provincial Government of every other Province to extend thereto] such portions of this Act as such Government may think fit. It is hereby enacted as follows:

CHAPTER 1 PRELIMINARY

1. Short title, commencement :-

This Act may be called The Legal Practitioners Act, 1879, and shall come into force on the first day of January, 1880. Local extent. This section and section 2 extend to the whole of India ¹[except the State of Jammu and Kashmir]. ²[The rest of this Act extends, in the first instance, only to the territories which, immediately before the 1st November, 1956, were comprised in West Bengal, Uttar Pradesh, Punjab, Bihar, Madhya Pradesh, Assam, Orissa and Delhi. But the State Government of any State may, from time to time, by notification in the Official Gazette, extend³ all or any of the provisions of the rest of this Act to the whole or any part of that State to which such provisions do not extend.]

1. Substituted for "except Part B States", by Part B States (Laws) Act, 1951 (3 of 1951), sec. 3 and Sch (1-4-1951).
2. Substituted for the former paragraph, by 2 A.L.O., 1956.
3. Under this power, the Act has been extended, subject to certain omissions and so far only as it relates to Judicial Courts, Civil and Criminal, to the Madras Presidency, except the Scheduled Districts, from 1-4-1882, see Fort St. Geo. Gaz., 1881, Pt. I, pp. 491 and 707. Sections 3 and of the Act have been extended to the Regulation Districts of the Bombay Presidency, see Bom Govt. Gaz" 1885, Pt. I, p. 290; and sections 13 (except clauses (a), (b), (c), (d) and (j) thereof), 34,36 and 40 have been extended o the whole of the Bombay Presidency (Bom. Govt. Gaz., 1904, Pt. I, p. 1635); for the extension of the Act to the State of Bombay after the reorganisation of States in 1956, see the Bombay Pleaders (Extension and mendment) Act, 1958 (Bom. 55 of 1958), sec. 10, Chapter 1; sec. 40, Sch, II, and so much of Chaps. III, V, VI and VII as relates to pleaders, have been extended to Coorg, see Mysore Gaz" 1879, Pt. I, p. 355; see also Coorg District Gaz" 1891, Pt. I, p. 140, for notification extending sections 4,5 and 38; Coorg District Gaz., 1899, Pt. I, p. 122, for notification extending sections 3, 13 and 36 as amended by Act 11 of 1896 so far as they relate to pleaders; and Coorg Gaz" 1935, Pt. I, p. 2 for notification extending sections 4 and 41. Sections 4 and 41 have been extended to Ajmer-Merwara, see Gaz. of Ind., 1927, Pt. II-A, p. 214.

2. Repeal of enactments :-

(Repealed by the Repealing Act, 1938 (1 of 1938), sec. 2 and Sch.)

3. Interpretation clause :-

In this Act, unless there be something repugnant in the subject or context,- "Judge" means the presiding judicial officer in every Civil and Criminal Court, by whatever title he is designated: "subordinate Court" means all Courts subordinate to the High Court, including Courts of Small Causes established under Act No. 9 of 1850¹ or Act No. 11 of 1865²: "revenue-office" includes all Courts (other than Civil Courts) trying suits under any Act for the time being in force relating to land-holders and their tenants or agents: "the legal practitioner" means an advocate, vakil or attorney of any High Court, a pleader, mukhtar or revenue-agent: ³["tout" means a person- (a) who procures, in consideration of any remuneration moving from any legal practitioner, the employment of the legal practitioner in any legal business; or who proposes to any legal practitioner or to any person interested in any legal business to procure, in consideration of any remuneration moving from either of them, the employment of the legal practitioner in such business; or (b) who for the purposes of such procurement frequents the

precincts of Civil or Criminal Courts or of revenue-offices, or railway stations, landing stages, lodging places or other places of public resort.] ⁴[36. Power to frame and publish lists of touts.- (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, [or to the satisfaction of any subordinate Court as provided in sub-section (2A)] by evidence of general repute or otherwise, habitually to act as touts, and may, from time to time, alter and amend such lists. (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. ⁵[(2A) Any authority empowered under sub-section (1) to frame and publish a list of touts may send to any Court subordinate to such authority the names of any persons alleged or suspected to be touts, and order that Court to hold an inquiry in regard to such persons; and the subordinate Court shall thereupon hold an inquiry into the conduct of such persons and, after giving each such an opportunity of showing cause as provided in sub-section (2), shall report to the authority which has ordered the inquiry the name of each such person who has been proved to the satisfaction of the subordinate Court to be a tout; and that authority may include the name of any such person in the list of touts framed and published by that authority: Provided that such authority shall hear any such person who, before his name has been so included, appears before it and desires to be heard.] (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 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 (e), and section 22, clause (d).] ⁵ [(6) Any person who acts as a tout whilst his name is included in any such list shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.] "Section 36 has been framed to put a stop to what is commonly known as the "touting" system - a system under which certain legal practitioners reward a Mukhtar or other hanger-on of the Court who brings them business by allowing him a

percentage on their fees. It is obvious that such a system, besides the degradation it involves to legal practitioners who resort to it as a means of obtaining business, also holds out to the Mukhtar or other go-between a strong temptation to retain for its employer, not the most skilful Pleader he can get for the fee allowed, but the Pleader who will pay him the largest commission. The only objection we have heard to the abolition of this most objectionable system has proceeded from certain Mukhtars, who urge that the commission allowed them by Vakils is not a remuneration for procuring the employment of such Vakils, but a payment for assistance rendered by them to such Vakils by performing certain duties which would in other cases be performed by a Attorney. The answer to this objection, it appears to us, is that, when the transaction is one bona fide of the nature thus described, the Mukhtar can find no difficulty in agreeing with his employer to receive direct from him any remuneration to which he may be entitled."-S.C.R.

1. See now the Presidency Small Cause Courts Act, 1882 (15 of 1882).
2. See now the Provincial Small Cause Courts Act, 1887 (9 of 1887).
3. Substituted by the Legal Practitioners (Amendment) Act, 1926 (15 of 1926), sec. 2.
4. Substituted for the original section by the Legal Practitioners Act, 1896 (II of 1896), sec. 4.
5. Inserted by the Legal Practitioners (Amendment) Act, 1926 (15 of 1926), sec. 3.