observed that the *ikrarnama* in unambiguous terms stated that definite shares in the entire family property had been allotted to the several co-parceners. This is unlike the award and agreement which is relied upon in the present case as establishing a separation in interest between the two brothers Lal Bihari and Chhail Bihari. Here the agreement did not provide that definite shares should be given to them. The arbitrators were to allot the property between them and their uncle as they might think fit. In the award definite shares were not given to them, but one share was given to both. In view of this and of the evidence which shows that Lal Bihari and Chhail Bihari continued as joint tenants up to the death of Lal Bihari, we are satisfied that there never was an agreement between the two brothers to become separate. We think that the view taken by the Courts below was therefore correct. We accordingly dismiss the appeal. The appellant must pay the costs of the respondent, Balmakund, the original defendant in the suit. The other respondent must abide his own costs.

Appeal dismissed.

PRIVY COUNCIL.

P. C. 1906, *November* 1, 5, *December* 14.

IN THE MATTER OF SASHI BHUSHAN SARBADHICARY.

[On appeal from the High Court of Judicature, North-Western Provinces, Allahabad.]

Advocate—Power of High Court to deal with advocate who is also a member of the English Bar—Constitution of Bench of High Court under Rules of Court—Rules 2, 180, 181, 197*—Letters Patent, clauses* 7 *and* 8*—Advocate charged with misconduct—Libellous article written by advocate in newspaper edited and published by himself—Contempt of Court—"Reasonable cause" for suspension.*

The High Court at Allahabad is not precluded from dealing under the Letters Patent of the Court with an advocate of the Court for misconduct by reason of his being a member of the English Bar.

By rule 2 of the High Court rules a Bench of three Judges of the Court is a tribunal properly constituted to deal with a charge of misconduct made against an advocate of the Court. Rule 197 does not make a Bench of five Judges necessary in such a case, but only provides for cases in which the High Court may for good cause and without charge or trial suspend or remove from the roll any advocate of the Court.

Present:—Lord DAVEY, Lord ROBERTSON, Sir ANDREW SCOBLE, AND Sir ARTHUR WILSON.

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After an altercation during the hearing of a case with one of the Judges of the High Court, in the course of which he alleged that he had been told by the Judge to "hold his tongue" and to "sit down," an advocate of the Court attempted to defend his conduct by publishing in a newspaper, of which he was the editor, an article which was a libel reflecting not only on the Judge before whom he had appeared but upon other Judges of the Court in their judicial capacity, and in reference to their conduct in the discharge of their public duties, and which amounted to a contempt of Court which might have been dealt with as such by the High Court. *Held* that such publication constituted under clause 8 of the Letters Patent of the Court "reasonable cause" for an order suspending the advocate from practising.

Such publication was not excusable on the ground that it was written in his capacity as editor of the newspaper and not in his capacity as an advocate. The controversy arose from the misbehaviour of the advocate conducting a case before the Court, and the contempt of which he was found guilty was committed in the attempt to vindicate his professional conduct in a publication for which he was solely responsible. *In re Wallace* (1) distinguished.

APPEAL from an order (July 5th, 1906) of the High Court at Allahabad whereby the appellant was suspended for four years from practice as an advocate.

The order and the circumstances which led to its being made are set out in the judgment of the High Court (SIR GEORGE KNOX, P. C. BANERJI, and R. S. AIKMAN, JJ.) giving their reasons for making the order, which was as follows :—

"Notice was served upon Mr. Sarbadhicary, an Advocate of this Court, to show cause why his name should not be removed from the Roll of Advocates of this Court or such other order passed as to the Court shall seem meet.

"The cause which led to the issue of this rule was that, under date June the 1st, 1906, a publication appeared called *The Cochrane*. It contained an article entitled 'Honourable High Court.' To the publication is appended a footnote to the effect that it is 'printed by A. Gani and published by Mr. Sarbadhicary, Barrister-at-law.' In the rule which issued it is set out that this publication contains scandalous and unbecoming remarks in reference to certain Judges of this Court before whom Mr. Sarbadhicary practises, and that in publishing the said paper Mr. Sarbadhicary has been guilty of conduct unworthy of a barrister.

(1) (1866) L. R., 1 P. C., 283.

"In showing cause the Advocate concerned began by taking exception to the jurisdiction of the Court. He contended that section 8 of the Letters Patent of the 17th of March, 1866, gave the Court no power over barristers and that the advocates contemplated by section 8 were only those advocates whom this Court might by rule 183* of the Rules of Court admit to the Roll of Advocates. But that the contention has been raised, it would seem hardly necessary to answer it.

"Section 7 of the Letters Patent in express words authorizes and empowers this Court to approve, admit and enroll such advocates as to them may seem meet. Section 8 gives the Court power to make rules for the qualification and admission of proper persons and empowers the Court to remove or suspend from practice on reasonable cause advocates so enrolled. Under the power so given the Court has made a rule, rule 180, permitting barristers of England or Ireland to present an application for admission to the Roll of Advocates. Even so, no barrister has, merely by reason that he has been called to be a barrister, the right to expect that his application will, as a matter of course, be granted. Rule 182 provides that the application be considered by the Chief Justice and Judges present for the time being in Allahabad and thereupon they may, if they think fit, order that the applicant be admitted to the Roll of Advocates of this Court. Moreover, the concluding words of section 8 effectually dispose of this objection. They are as follows:—

'No person whatsoever but such advocate' (*viz.* an advocate admitted under Rule of this Court) 'shall be allowed to act or plead for or on behalf of any suitor in the said High Court.' The right of any barrister to appear in this Court rests upon his being admitted to the Roll of Advocates of this Court and not upon his being called to the Bar.

"We overruled this objection.

"The Advocate concerned then argued that, under rule 197 of the Rules of the Court, his case must be tried by the Chief Justice and Judges present for the time being in Allahabad. We overruled this objection also. Rule 2 empowers a Bench of three Judges to hear and decide all charges against advocates in respect

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of professional or other misconduct for which an advocate may be removed or suspended from practice. Rule 197 provides for cases in which the Chief Justice and Judges may for good cause and without charge or trial suspend or remove from the roll of Court any advocates of the Court. The rule has no application to the case before us.

"The Advocate concerned next attempted to justify the matter which appeared in *The Cochrane* under date June the 1st, 1906. The line of argument which he adopted was that (1) what he had set out therein was set out by him in his capacity of editor and not in his capacity of advocate of this Court; (2) that what was contained in the paper were mere opinions expressed in all honesty by an editor without malice and with a view to correct errors; (3) that nothing had been said in a contemptuous way, and (4) that the only misconduct of which this Court could take notice was misconduct on his part with reference to clients.

"We shall first deal with the last two of these contentions.

"A very similar contention was put forward in *In re Weare* (1) and brushed aside by Lord Esher with the following remarks:—

'It is argued that if an offence committed by a solicitor is not an offence in his character as a solicitor, or having relation to his character as a solicitor, then, however monstrous it may be, the Court has not authority to strike him off the rolls, because the act is not done in his capacity as a solicitor. That would seem to me to be a very strange doctrine, if it were true, that a person convicted of a crime however horrible must, if it be not connected with his professional character, be allowed by the Court still to be a member of a profession which ought to be free from all suspicion.' The offence in this case was a personally disgraceful offence.

"We know of no authority, and the advocate concerned has referred us to none, to show that this misconduct intended by rule 2 bears the limited meaning which he seeks to put upon it. Section 8 of the Letters Patent empowers the Court to remove and suspend upon 'reasonable cause,' words which have a much wider range than mere misconduct. It is wholly unnecessary for

(1) (1893) 2 Q. B. D., 439.

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us to point out that the profession of an advocate is an honourable profession, and that this Court is concerned in seeing that those who are on the roll of advocates maintain by their acts and conduct not merely the honour of the body to which they more immediately belong, but also the honour of the Court of which by reason of their enrolment they form an integral part. Any act which tends to discredit or bring into contempt the order of advocates of the Court amounts to misconduct of which this Court can take notice. Acts which on the part of a private individual offend against the dignity or are calculated to prejudice the course of justice and are in his case contempts of Court, do not cease to be acts of misconduct because they are committed by an advocate. Rather are they aggravated, inasmuch as the advocate is bound to uphold and maintain the dignity of the Court. Acts which scandalize the Court as libels on its integrity, or the integrity of its Judges, officers and proceedings, are all instances of such misconduct. [*Ex parte Turner* (1); *Reg.* v. *Castro* (2)]. A case very much in point is the case of *Lechmere Charlton* (3). In that case Mr. Lechmere Charlton, a barrister, sought (as the attempt has been made in this case) to distinguish a letter, written after a case was concluded, reflecting upon the conduct of a Master in Chancery as being both unexpected and inexcu able, and couched in threatening terms, as an act done by him not as a mere barrister, but as a gentleman. He maintained that he had a right to ask (or what would become, he said, of the boasted independence of the British Bar?) 'if a counsel thus insulted, tricked and defeated is not to be allowed to complain of the deception that has been practised upon him in the manner that one gentleman usually complains of the ill-treatment that he has received from another, without being hoisted up for the contempt of a superior Court, and an upright and enlightened Judge.' He freely declared that he harboured no sort of ill-will towards Master Brougham, that it was of his judicial conduct alone that he complained and which he hoped would have been corrected. Lord Chancellor Cottenham in giving judgment held that 'every writing, letter or publication, which has for its object to divert the

(1) (1844) 3 Mont., D. and D., 523. (2) (1873) L. R., 9 Q. B., 219.
(3) (1836) 2 Mylne and Cr., 316.

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course of justice, is a contempt of the Court. It is for that reason that publication of proceedings which have already taken place, when made with a view of influencing the ultimate result of the cause, have been deemed contempts. It would be strange, indeed, if the Judges of the Court were the only persons not protected from libels, writings and proceedings, the direct object of which is to pervert the course of justice. Every insult offered to a Judge, in the exercise of the duties of his office is a contempt; but when the writing or publication proceeds farther, and when, not by inference, but by plain and direct language, a threat is used, the object of which is to induce a judicial officer to depart from the course of his judicial duty and to adopt a course he would not otherwise pursue, is a contempt of the very highest order.'

"The advocate concerned not only admits, but attempts to justify, the following passages in *The Cochrane* of the 1st of June, 1906 :—

I. 'For the Chief Justice is in the potestas of that gentleman who sits with him. The non-Chief Justice proposes, and the Chief Justice dittoes. One day when he had to act alone, knowing, we believe, his talent was not adequate, he invited Mr. Justice Burkitt and thus he sat and Sir William Burkitt worked for him. This was objected by the Counsel. So our Honourable Chief Justice was angry. Had our Honourable gentleman been as independent as his predecessors, respectively, Sir John Edge and Sir Arthur Strachey, he would have never openly taken help. Another instance of his dependence was that he is not confident of his ability. For when he writes a judgment he sends it to another Judge for correction who examines. We had shown to our readers an instance in which the Chief wrote a letter to Mr. Blair, stating that he sent a judgment to him and requested him that he should correct the judgment, insert proper words, and then return it to him. Thus helped as he is, he must give help when it is necessary, so when Mr. Blair assailed the Counsel who was in his bad book, by saying hold your tongue and others, and when the remarks were dittoed, our Honourable Chief Justice shielded him, punishing the Counsel, although the quarrel was started by Mr. Blair and he was entirely to blame. So we can say

without the fear of contradiction, that our Honourable Chief Justice is not an independent man.'

II. 'There is another reason that induces us to think that he' (alluding to Mr. Justice Richards) 'has never studied our law properly for the reason that a lawyer does nothing that goes against him. Having asked a respectable Counsel to hold his tongue, which is a defamatory expression, one might be impressed with the idea that he has never received any legal education. By employing the expression he has shown that he is not at all a lawyer, and a Judge not qualified enough.'

III. 'We do not know whether the associates of our Honourable gentleman' (again alluding to Mr. Justice Richards) 'have made the London public houses their favourite resorts whence they have learned it, and our Honourable gentleman learned it from them to honour the High Court Counsel, and this is the only way in which he honours them.'

IV. 'If he once says:—My Lord, you please do the same (hold your tongue), then our Honourable Chief Justice, who might not be qualified enough for the due discharge of the routine of work, but he is the most competent in hurling his unerring javelin at the Counsel, will too readily do so, inflicting a deep wound which will not cure in the process of time, which will fester and bleed afresh and the wound only heals up when the aggrieved party courts death. So our readers can easily see that we have a wonderful Chief Justice who punishes an assailed and not an assailant with miraculous readiness and activity. He punishes not the wrong-doer, but the wronged, and thus he upholds justice. Can you furnish a parallel to this, our readers? We can confidently say not at all.'

"Up to the close of the case and even after the learned Government Advocate, whom we called upon on behalf of the Bar and as *amicus curiæ,* had commented on the scandalous tone in which these publications were couched, the Advocate concerned expressed no regret of any kind, but strenuously maintained that he was 'fully prepared to justify' and 'did justify all he had written.' After reading and weighing carefully each word contained in these passages we can only express our astonishment and regret that any person of light and learning can still maintain, as did

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the advocate concerned, that he had said nothing and written nothing in a contemptuous way. We are not dealing with an ignorant person, but with an advocate who, as he himself tells us, has received his education in the University of Edinburgh, was a student of the Society of Gray's Inn, and was called to the Bar therefrom.

"We have no alternative but to condemn every one of these passages as being scandalous writing, and the writer, as having, in writing and publishing them, been guilty of misconduct unworthy of an advocate of this Court.

"The advocate concerned sought to justify and defend what he had written by calling our attention to other issues of *The Cochrane,* and by arguing that because there was not a single Judge of whom he had not said something bad, and also something good, the two must be considered in the light of a set-off one against the other. We regret to have to say it, but we must say it, that this attempt at explanation merely aggravates the misconduct. As the learned Government Advocate pointed out to us at the hearing, and as we have afterwards been at the pains of verifying, these so-called expressions of praise are in every instance almost used as a foil to set off in a more conspicuous and aggravated manner scandalous matter that the advocate was bent on publishing. The files are on the record and speak for themselves.

"We need hardly add that we had much rather that our attention had not been called to these passages. But it was the advocate concerned who compelled us to look at them and to consider them. Our attention being called to them we can only adopt the words of Mr. Justice Holroyd in *Rex* v. *Davison,* (1) that 'in the case of an insult to himself it is not on his own account that the Judge commits, for that is a consideration which should never enter his mind. But though he may despise the insult, it is a duty which he owes to the station to which he belongs, not to suffer those things to pass, which will make him despicable in the eyes of others. It is his duty to support the dignity of his station, and uphold the law, so that, in his presence, at least, it shall not be infringed.'

(1) (1821) 4 B. and Ald., 329.

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"Hitherto we have not said anything about the reckless want of truth that disfigures each one of the passages set out above from *The Cochrane* of the 1st of June, 1906.

"The advocate concerned has made no attempt to support the statements contained in these passages by evidence of any kind. It is true that he has filed an affidavit, but the only fact affirmed in that affidavit is that on the 19th April, 1906, the Hon'ble Mr. Justice Richards did use the expression 'Hold your tongue' when he (the advocate) was arguing a case before him.

"Regarding the first part of the passage No. I, an attempt was made to justify it on the ground that it was an opinion. As regards the second part we understand that the advocate found in a book, to which he obtained access by reason of its being in the library of the Court, a letter which was not addressed to him, but to another gentleman. That letter he admits having perused without authority from either the writer or the person addressed and, having perused it, he considers that he acted meritoriously in not forwarding it to the Secretary of State, but in returning it with a letter of his own to the Hon'ble the Chief Justice who was the writer. We have always understood that in any civilized country it is considered a dishonourable act to peruse a private letter not intended for the reader's perusal and addressed to another person. Such conduct is understood everywhere as conduct unworthy of any person who claims the status of a gentleman. But for the admission made by the advocate concerned, we should have found it difficult to believe that any one admitted to the Honourable Society of the Inns of Court could have considered it proper to do such an act, and still less, having done it, to attempt to justify his conduct. Moreover, the incident here mentioned is a good instance of the way in which acts in themselves proper have been distorted by the advocate concerned in order to bring the Court into contempt with the outside public. It has long been the established practice of this Court that where two or more Judges have heard a case and are agreed as to the general tenor of a judgment one Judge should prepare the judgment and submit it for the opinion and criticism of his fellow Judge or Judges. These criticisms are duly considered and, if accepted, the judgment issues as the judgment of the combined Court. It

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is an instance of this nature that the advocate concerned has distorted, and we fear we must say it, has wilfully distorted. The extracts II, III and IV, where they reflect upon the Hon'ble the Chief Justice or the Judge referred to are, the advocate concerned considers, sufficiently explained by the remark that they are opinions.

"Regarding the first and second contentions raised, it is hardly necessary for us to follow the advocate into the flimsy duality of persons which he attempts to set up. We are in this case concerned with Mr. Sarbadhicary, barrister-at-law, who has subscribed the article. It is in our opinion an article intended to scandalize the Court in the eyes of the public and the writer is responsible for it as an advocate of this Court.

Two days after the case had been argued and judgment reserved, the advocate tendered to the learned Chief Justice, who was taking applications, the following petition :—

'That in respect to the proceedings which have been taken by this Court against your petitioner under section 8 of the Letters Patent your petitioner has since himself considered the whole matter and taken the advice of some friends, and he begs now to express his unfeigned and deep regret at the publication of matter considered to be derogatory to the Hon'ble Judges and calculated to bring the administration of justice into contempt.

'2. That your petitioner regrets that he acted without deliberation and upon sudden impulse in writing the article which has given rise to proceedings against him.

'3. That your petitioner was under the honest impression that in writing the article, which on maturer consideration he does not now seek to justify, he was not acting as an advocate, but, irrespective of his belief or impression in the matter, he now withdraws all offensive and derogatory remarks about this Court and expresses his unqualified regret in so far as his conduct has appeared to the Judges of this Honourable Court as unbecoming an advocate and as otherwise than duly respectful to them, and trusts that the Honourable Court may be pleased to accept this apology.'

"Looking to the tone of this belated apology we feel ourselves unable to accept it. Moreover, we cannot lose sight of the fact

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that this is not the first time this advocate has been found guilty of misconduct. He was suspended for three months for disrespect shown to a Judge in open Court and only readmitted to practice upon his tendering an apology to the Court.

"Notwithstanding this, he, in the article under consideration, refers to the incident in the following terms:—'The quarrel was started by Mr. Blair (the Judge to whom disrespect was shown) and he is entirely to blame.'

"To accept the apology now tendered would be, to use the words of Mr. Justice Wills, 'a stretch of charity which would degenerate into absurd and ridiculous weakness.'

"We are unanimous in arriving at the conclusion that Mr. S. B. Sarbadhicary has been guilty of gross misconduct in publishing an article containing the passages above set forth.

"The order of the Court is that Mr. S. Sarbadhicary be suspended from practice for a period of four years with effect from this date."

On this appeal, which was heard *ex parte*, the appellant appeared in person and contended that the High Court had no jurisdiction over him in the matter of the alleged misconduct as he was a member of the English Bar; that the Bench of the High Court by which his case was heard was not properly constituted because under rule 197 of the High Court the Bench ought to have consisted of five Judges and not three only; that the offence with which he was charged was committed by him not in his professional capacity, but in the capacity of editor of *The Cochrane* newspaper; that if the remarks published by him in his newspaper were objectionable or untrue he could have been proceeded against under the ordinary law, namely, section 500 of the Penal Code, Act XLV of 1860; and that his apology should have been accepted, and regarded as ample expiation of the offence. Reference was made to *In the matter of Rajendro Lal Mukerji* (1), *In the matter of Parbati Charan Chatterji* (2), Penal Code (Act XLV of 1860), sections 228, 500, *In the matter of Wallace* (3), *In re Weare* (4), *The Queen* v. *Castro* (5), *Ex parte Turner* (6) and *Lechmere Charlton's case* (7).

(1) (1899) I L. R., 22 All., 49.
(2) (1895) I L. R., 17 All., 498.
(3) (1866) L. R., 1 P. C., 283.
(4) (1893) L. R., 2 Q. B. D., 439.
(5) (1873) L. R., 9 Q. B., 219.
(6) (1844) 3 Mont., D. and D., 523.
(7) (1836) 2 Mylne and Cr., 316.

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He also urged that the sentence of four years' suspension from practice was too severe.

1906, *December* 14*th*.—The judgment of their Lordships was delivered by Sir ANDREW SCOBLE:—

The petitioner in this case, Mr. Sashi Bhushan Sarbadhicary, is a barrister of Gray's Inn, and an advocate of the High Court of Judicature at Allahabad; and he complains of an order of that Court whereby he was suspended from practice in that Court for a period of four years, from the 5th July 1906, for "gross misconduct." The grounds of his appeal are nine in number, and as two of them relate to the competency of the Court to make the order, it will be convenient to dispose of them in the first instance.

The first objection is that the Court "had no jurisdiction to deal with the applicant for alleged misconduct, he being a member of the English Bar."

In the opinion of their Lordships this objection is untenable. By section 7 of the Letters Patent by which it was established, the High Court is authorized and empowered "to approve, admit, and enroll such and so many advocates . . . . as to the said High Court shall seem meet;" and by section 8 the High Court is empowered "to make rules for the qualification and admission of proper persons to be advocates . . . . and to remove or to suspend from practice on reasonable cause the said advocates." By rule 180 of the Court "any barrister of England or Ireland, and any member of the Faculty of Advocates in Scotland may present an application for his admission to the Roll of Advocates of the Court;" and on compliance with certain conditions specified in rule 181 may, under rule 182, if "the Chief Justice and Judges then present in Allahabad think fit, be admitted as an advocate of the Court." It is clear, therefore, that any barrister so admitted becomes thereupon subject to the disciplinary jurisdiction of the Court.

The second objection taken by Mr. Sarbadhicary is that the Court which dealt with the charge against him was not properly constituted under the Rules of the Court. Rule 2 provides that—

"A charge against an advocate . . . . in respect of any misconduct for which such person may be suspended or dismissed from practice . . . .

shall be heard and decided by a Bench of three Judges. Such Bench may, at the hearing, refer the matter for disposal to a Bench consisting of five Judges."

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If this rule applies, there is no doubt that the Court which heard and disposed of Mr. Sarbadhicary's case was properly constituted, for it consisted of three Judges. But Mr. Sarbadhicary contends that, under Rule 197, which provides that "the Chief Justice and Judges present for the time being in Allahabad may, for good cause appearing to them, by an order in writing under the seal of the Court, suspend or remove from the Rolls of the Court any advocate . . . . ," he was entitled to have his case heard by a Bench of five Judges, as that number were then present in Allahabad. The learned Judges who heard the case, and before whom this objection was raised, say that "Rule 197 provides for cases in which the Chief Justice and Judges may for good cause, and without charge or trial, suspend or remove from the Roll of the Court any advocate of the Court." And their Lordships see no reason why they should reject this explanation. An advocate convicted of a criminal offence might properly be suspended or removed from practice under this rule without further charge or trial. In their Lordships' opinion, this objection also fails.

The facts of the case lie within a very short compass. On the 19th April, 1906, Mr. Sarbadhicary was conducting a criminal case before Mr. Justice Richards, when, to use the petitioner's language:—

"An altercation happened between the honourable gentleman and the Counsel about the administration of the oath to the accused by the Magistrate who tried them. The Counsel was backed by two depositions of the two accused . . . . They were showed to the Judge (who) wanted to assail the Counsel, but the latter, relying on his own innocence, stated that, as he had the copies, he was not the least to blame. The Judge was angry, and said, 'Why did the Counsel assail the Court below?' The Counsel stated that, before the files reached, the copies were the only source of his information; and sat. The Judge asked the Counsel to be polite, and the Counsel applied (to) the Judge for the same favour. The Judge remarked he should not be answered back. The Judge thereupon angrily said 'Sit down.'"

In an affidavit filed in this matter, Mr. Sarbadhicary says the words used were "Hold your tongue." But whatever the words used, Mr. Sarbadhicary says he was "greatly affected" by them, and sent the Judge a notice that "he would be legally

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proceeded against, both civilly and criminally, on the expiration of two months." Before this period expired, on the 1st June 1906, Mr. Sarbadhicary published in a periodical called *The Cochrane*, of which he is both the editor and publisher, an article which has given rise to the order of suspension of which he now complains.

There is no doubt that the article in question was a libel, reflecting not only upon Mr. Justice Richards, but other Judges of the High Court in their judicial capacity and in reference to their conduct in the discharge of their public duties. There is also no doubt that the publication of this libel constituted a contempt of Court which might have been dealt with by the High Court in a summary manner, by fine or imprisonment, or both. The only question which their Lordships have to consider is whether the publication of such a libel constitutes "reasonable cause" for the suspension of an advocate from practice under the power conferred by the Letters Patent.

Their Lordships will not attempt to give a definition of "reasonable cause," or to lay down any rule for the interpretation of the Letters Patent in this respect. Every case must depend on its own circumstances. It is obvious that the intention of the Crown was to give a wide discretion to the High Court in India in regard to the exercise of this disciplinary authority. The Rules of the Court, to which reference has been made, indicate the precautions taken by the Court itself to secure that the powers shall not be used capriciously or oppressively, and there is no reason to apprehend that the just independence of the Bar runs any risk of being impaired by its exercise. On the other hand, it is essential to the proper administration of justice that unwarrantable attacks should not be made with impunity upon Judges in their public capacity; and, having regard to the fact that in this case a contempt of Court was undoubtedly committed (and, as the evidence shows, not for the first time) by an advocate in a matter concerning himself personally in his professional character, their Lordships agree with the conclusion at which the Judges of the High Court arrived, and that there was "reasonable cause" for the order which they made.

Among other grounds of objection to the Order Mr. Sarbadhicary endeavoured to draw a distinction between "his capacity

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as an advocate and his capacity as an editor," and cited the case of *In re Wallace* (1) as an authority in support of his argument. But that was an entirely different case from the present. In delivering judgment, Lord Westbury (at p. 294) says:—

"It was an offence . . . committed by an individual in his capacity of a suitor in respect of his supposed rights as a suitor, and of an imaginary injury done to him as a suitor; and it had no connection whatever with his professional character, or anything done by him professionally, either as an advocate or an attorney."

Here the whole controversy arose from the misbehaviour of Mr. Sarbadhicary as an advocate conducting a case before the Court, and the contempt of which he was properly found guilty was committed in the attempt to vindicate his professional conduct in a publication for which he was solely responsible.

Their Lordships will say nothing as to the character of the libel, or as to the extent of the punishment awarded. They will humbly advise His Majesty to dismiss the appeal.

Appeal dismissed.

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August 2.

APPELLATE CIVIL.

Before Sir John Stanley, Knight, Chief Justice, and Mr. Justice Sir George Knox.

CHHAJJU GIR AND ANOTHER (DEFENDANTS) *v.* DIWAN (PLAINTIFF).*

Hindu Law—Grihast Goshains—Succession—Custom—Adoption of Chela by widow of deceased Goshain.

The plaintiff set up a custom as prevalent amongst the grihast goshains of Hardwar and other places adjacent in the United Provinces whereby the widow of a deceased goshain was entitled with the concurrence of the elders of the sect to adopt a chela and successor to her deceased husband. *Held* on the evidence that such custom was not established. *Ramalakshmi Ammal* v. *Sivanantha Perumal Sethurayar* (2), *Khuggender Narain Chowdhry* v. *Sharupgir Oghorenath* (3), and *Govind Doss* v. *Ramsahoy Jemadar* (4) referred to.

Semble that the sect of grihast goshains living mostly in these provinces at Hardwar, Dehra Dun and other adjacent places, are subject generally to the ordinary rules of Hindu law. *Collector of Dacca* v. *Jagat Chunder Goswami* (5) referred to.

THE facts of this case are fully stated in the judgment of the Court.

* First Appeal No. 5 of 1904 from a decree of Babu Madho Das, Subordinate Judge of Saharanpur, dated the 11th of December 1903.

(1) (1866) L. R., 1. P. C., 283.
(2) (1872) 14 Moo., I. A., 570.
(3) (1878) I. L. R., 4 Calc., 543.
(4) (1843) 1 Fulton, 217.
(5) (1901) I. L. R., 28 Calc., 608.