*Reasons for the Report of the Lords of the Judicial Committee of the Privy Council on the Appeal in the Matter of Rajendro Nath Mukerji, from the High Court of Judicature for the North-Western Provinces, Allahabad; delivered* 17*th June* 1899.

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Present at the hearing:

LORD HOBHOUSE.
LORD MACNAGHTEN.
SIR RICHARD COUCH.

[*Delivered by Sir Richard Couch.*]

This is an Appeal against an order of the High Court of Judicature at Allahabad made on the 4th of January 1896 whereby it was ordered that the Appellant's name should be struck off the roll of vakils entitled to practise before the said Court and his certificate should be cancelled. On the 9th of August 1895 the Appellant was found guilty by the Sessions Judge of Allahabad concurring with the assessors under Section 471 of the Indian Penal Code of fraudulently using as genuine a document which he knew to be forged and sentenced to be rigorously imprisoned for three years. He appealed to the High Court by which on the 21st November 1895 the conviction was affirmed and the sentence altered to two years' rigorous imprisonment. On the 27th November 1895 the High Court ordered notice to be given to the Appellant to show cause why he should not be removed from the roll of vakils and his certificate be cancelled in consequence of the offence of which he had been convicted. On the 3rd of January 1896 the case came

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before the Chief Justice and five Judges of the High Court and it was held that the propriety in law or in fact of the conviction could not be questioned but the Counsel for the Appellant was not precluded from showing if he could that the conduct of his client in the matter was not such as to render him an unfit person to be retained on the roll of the vakils of the Court. On the next day the same Judges in their judgment after stating the circumstances connected with the offence said that the Appellant had attempted to deceive the Court by representing by means of a forged endorsement on a copy of a decree that an Appeal was within time when he knew or must have known that it was time-barred; that this offence was not committed by an ignorant man or by a new practitioner unaccustomed to the examination of documents, nor in the hurry of the moment and without due consideration and made the order now appealed against. The printed case in this appeal for the Appellant consists of a statement of the facts previous to the using by him of the forged document, the evidence of witnesses examined at the trial, and the judgment of the High Court on the 21st November 1895. The reasons given for the Appeal are that the High Court was wrong in law in not allowing the propriety of the conviction to be questioned, that the conviction was not justified either in law or in fact, that the Appellant did not fraudulently or dishonestly use the copy of the decree, that no reasonable cause had been shown to justify his removal from the roll of vakils, and the evidence given on his trial did not prove any act or practice on his part justifying the order for it. It is plain that the object of the present Appeal is to have the judgment of the Sessions Judge and of the High Court on the Appeal reviewed and reversed in substance if not

in form. This ought not to be allowed. In effect the Appellant would indirectly have an appeal against the conviction when if he had petitioned for leave to appeal against it the leave would certainly have been refused. *Ex parte Macrea* (L.R. 20 I. Ap. 90). Mr. Branson who appeared for the Appellant admitted that if this review of the conviction was not allowed there were no extenuating circumstances that he could rely upon against the order. He referred to *In re* Weare (L. R. 1893, 2 Q.B. 439). In that case a solicitor had been convicted by two justices of Bristol of being a party to the continued use of premises as a brothel and sentenced to a term of imprisonment which sentence was on appeal to the quarter sessions set aside and a fine of 20*l.* substituted. An application was made by the Incorporated Law Society to strike his name off the roll which was ordered by the Divisional Court and he appealed from that order to the Court of Appeal. The Court looked at the evidence given at the trial to see what was the nature of the offence, holding that it had a discretion and would not as a matter of course strike him off the roll because he had been convicted. This is a very different case from the present one. The judgment of Lord Mansfield *In re* Brounsall 2 Cowp. 829, quoted by Lord Esher in his judgment is more appropriate to the present case. That was an application to the Court to strike an attorney off the roll, he having been convicted of stealing a guinea for which offence he was sentenced to be branded in the hand and to be confined in the House of Correction for nine months. Lord Mansfield said: "This application is not in the " nature of a second trial or a new punishment. " But the question is whether after the conduct " of this man " (*i.e.*, in stealing the guinea—it does not say when where or how—) " it is proper " that he should continue a member of a profession

" which should stand free from all suspicion. " . . . and it is on this principle that he is an " unfit person to practise as an attorney. It is not " by way of punishment but the Court in such " cases exercise their discretion, whether a man " whom they have formerly admitted, is a proper " person to be continued on the roll or not. " Having been convicted of felony we think the " Defendant is not a fit person to be an attorney." Lord Esher in Weare's case adds " There it seems " to me is the whole law on the matter laid down " as distinctly as can be and in a way the propriety " of which nobody as it appears to me can doubt." The case in 61 Law Times 842 also referred to by Mr. Branson is only an authority that the Court has a discretion. The case in 7 All. 290 was under Sec. 12 of Act 18 of 1879 which gives power to the High Court to suspend or dismiss any pleader holding a certificate who is convicted of any criminal offence implying a defect of character which unfits him to be a pleader. It does not appear in the report whether the Court considered that the conviction of the pleader of cheating was wrong or that in the exercise of its discretion he should not be suspended or dismissed. It was a case where the nature of the offence might reasonably be inquired into. Their Lordships do not agree with the Chief Justice where he says that the pleader's Counsel was entitled to go behind the conviction in order to show that he had committed no offence at law. In the present case the conviction of forgery followed by a sentence of two years' rigorous imprisonment is sufficient without further inquiry to justify the Court in removing the Appellant from the roll of vakils and cancelling his certificate. Their Lordships will therefore humbly advise Her Majesty to affirm the High Court's order and to dismiss the Appeal.