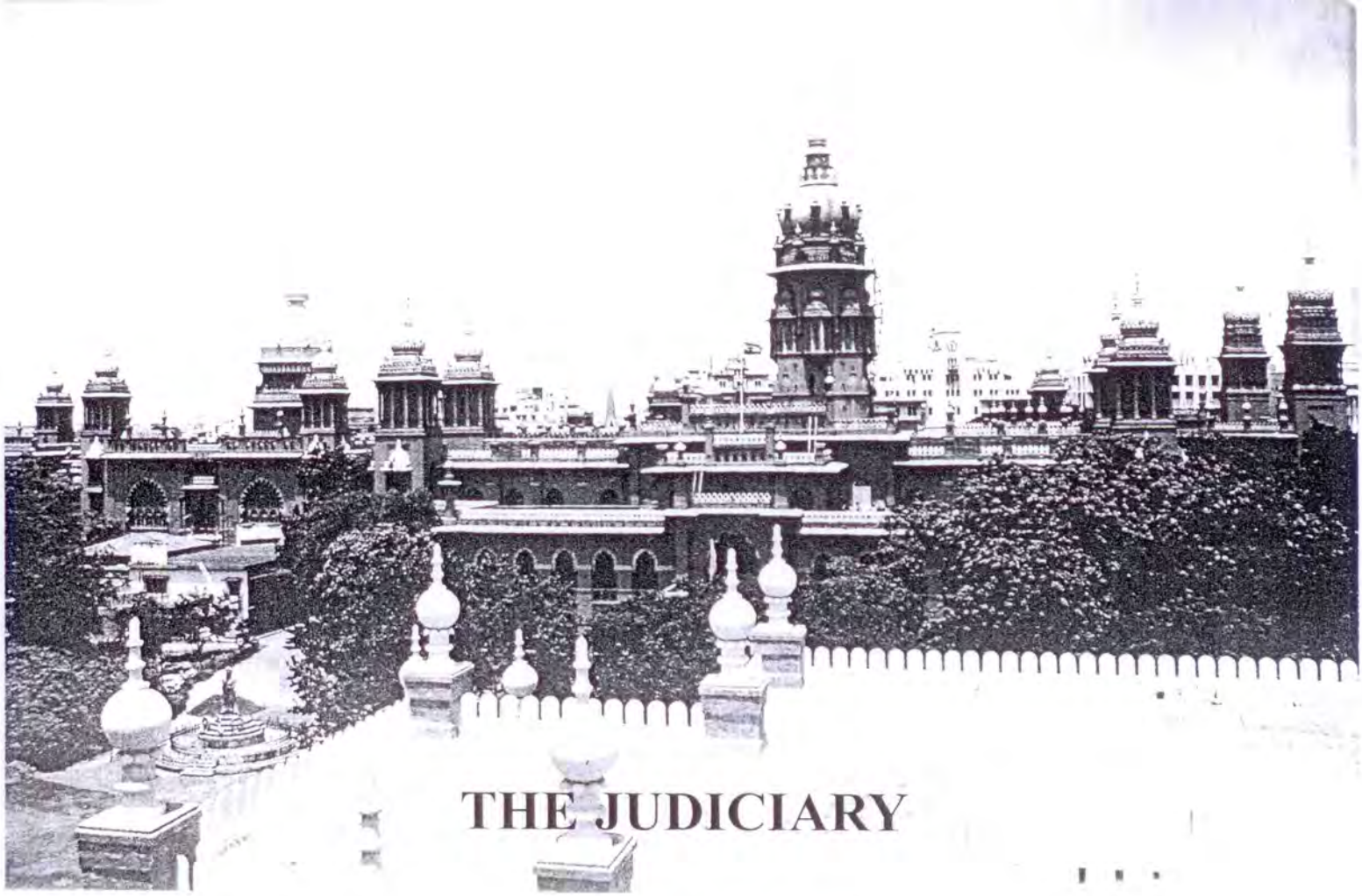

THE JUDICIARY

Dr. Sudhir Ravindran

The East India Company, established by Queen Elizabeth I for trading activities in India through a charter dated December 31, 1600, began licensed trading in Surat. However, to secure its trade lines and commercial interests in the spice trade, it felt the necessity of a port closer to the Malacca Straits. In 1639, Francis Day, a servant of the East India Company, succeeded in negotiating a piece of coastal land that became Madras.

Soon after Francis Day had founded Madras, and his boss, Andrew Cogan, Chief of Agency at Machilipatnam, had moved the seat of the Agency to Madras, Cogan was confronted with 'The Mystery of the Woman in the North River'. Its resolution provided Madras its first recorded murder. One day, something like a log was spotted in the river that flowed to the west of Fort St. George. Several persons volunteered to swim out to verify what this object floating out to sea was. The 'log' turned out to be the decomposed body of a 'native woman' who had been missing from her house for several days. The body was soon hauled ashore. Since no wounds were visible, it was presumed the woman had drowned herself and orders were issued for the disposal of the body. One of the 'rescuers', however, was not content to leave well enough alone; he demanded that he be paid for his efforts. Thereupon, a bystander tartly retorted that "he had no reason, of all men, to require any such thing, for that she had mainteyned him and his consort for a long time together."

Doubts arose about the 'rescuer', and a pair sharper than the rest spotted blood on his clothes. A part of his cloth was also found to be a part of what was wrapped around the woman's body. The 'rescuer' denied all accusations of murder, until his house was searched and all the clothes and jewellery of the victim were found. The 'rescuer' finally confessed to committing the crime together with his "male consort".

Agent Cogan wrote to the Naik, who governed the

territory, enquiring what action was to be taken because he was more concerned with the legal aspects of the murder in his 'territory' than with the crime itself. The Naik pertinently asked Cogan, "if justice be not done, who would come and trade here, especially when it shall be reported it was a place of theeves and Murtherers?" Cogan thereafter acted speedily, especially with the capture of the "Second Murtherer". "Wee did justice on them and hanged them on a Gybbet, where they hung till the 11th of Xber (1641)," Cogan recorded.

Around this time there were two organised groups (the left-hand and right-hand castes) which had regional divisions between them. (In Madras, the Beri Chetties, artisans, oil-mongers, weavers and leather workers were the chief elements in the left-hand faction, while the Vellalas, the Arya Vysias (Komatis), the Vannias and the Adi-Dravidas belonged to the right-hand division.) From time to time, factious fights a rose between the right-hand and left-hand castes. The grounds of quarrel were mostly with reference to the particular routes that the marriage and funeral processions of these castes should take, and the symbols and the trappings that should adorn their processions and pandals on occasions of festivity and they were ready to fall out with each other at the smallest provocation. The earliest recorded dispute between the castes seems to have occurred in Madras in 1652-1653, which was settled by an award (wherein the name of Chennapatnam first occurs in an official document). The result of the award was that the eastern half of the Hindu town came to be generally occupied by the left-hand castes and the western half by the right-hand ones.

Meanwhile, inside an expanding Fort grew the White Town – a settlement of British and other Europeans. The land to the north of it was settled by Indians and was called 'Black Town' by the British. The whole settlement, comprising the Black and the White Towns, came to be known as Madras. Fort St. George was the first permanent seat of British power in India and it was here that the foundations of modern India were laid.

Judicial System

In Madras, the judicial institution grew in three stages before 1726. In the first period (1639 to 1665), administration of justice was in an extremely elementary form. The second period (1665 to 1686) saw the establishment of the court of the Governor and Council. During the third period (1686 to 1726), the Admiralty Court and the Mayor's Court were created.

Very little is known about the administration of justice in the early stages of the settlement. Justice is believed to have been dispensed in the White Town by the Agent and Council. However, the Agent and Council did not take up serious criminal cases; they were referred to the Company's Court of Directors in England. The indigenous law governing Indians was unaffected as the Company evinced no interest in the administration of local justice. During the first period (1639 to 1665), there seems to have been no fixed legal rules governing the settlements in Madras. The trial procedures adopted were informal and failed for want of systematic adjudication. Trials conducted against the Indians appear to have been conducted in an *ad hoc* manner and so was the procedure followed in them.

The Choultry Court

The charters dated December 31, 1600, May 31, 1609, and February 4, 1622 granted powers to the East India Company to chastise and correct all English persons committing any misdemeanour in India. During the initial period of the British in Madras, justice was administered to the Indians by a native *adigar* (headman). (The term *adigar* is derived from the term *'adhikari'*, meaning one who has authority.)

The Governor sat at the choultry, or 'Town House' as it was called, as a justice of peace. Hence the name Choultry Court. The Choultry Courts tried petty cases, civil or criminal. The Choultry Court was a court of petty cause, a custom-house, and a registration office for the record of sales of real property and for the licensing of slaves. It had a jail attached to it. The Court remitted important cases, where English subjects were involved, to England, while it persuaded the local Naik to deal with cases in which Indians were the parties. The jurisdiction or ceiling of the value of cases that could be dealt with by the Choultry Court was fixed at fifty pagodas. The presiding officer of the Court was called the Chief Justice of the Choultry.

Sir Edward Winter was appointed in February 1661 as the first President of Madras. He had wide power to dismiss Company's servants who engaged in private trade and have them sent back to England.

In 1661, a charter was granted by the British Crown authorising the Governor and Council to hear the cases of all persons, whether Indians or English, inhabiting the settlements of the Company. However, this charter did not immediately become operative in Madras. It was in accordance with the Charter of 1661 that the Governor and Council tried Ascentia Dawes with the help of a jury in 1665. This criminal case was the first Trial by Jury in India. Twentyfour persons were summoned to constitute the Grand Jury and returned

the indictment previously made. Still, following London's instructions, 36 prospective jurors for a jury of 12 were summoned, the indictment was read and Mrs. Dawes informed that she could discharge any 20 of the prospective jurors without showing cause. She objected to three, including Winter, and six Englishmen and six Portuguese were sworn in. Once the indictment was read and the witnesses examined, the jury retired to consider its verdict. Two hours later it was back, finding her guilty of "Murther" of her maid servant, but "not in manner and forme", and therefore in need of "directions from the court". The Governor and the Council returned the answer that the jury must bring in a verdict of 'guilty' or 'not guilty' without any exception or limitation. Quite unexpectedly, the jury returned the verdict 'not guilty' and Mrs. Dawes was acquitted. Neither the Governor nor Council was a lawyer by education or training and so had difficulty addressing the legal complications which arose during the trial.

Detailed reports of the whole case were sent back to England by Governor Foxcroft with a request that clearer guidance and trained assistance be sent out to help in future cases, for "wee found ourselves at a loss in several things for want of Instructions, having no man understanding the Laws and formalities to instruct us, as... whether anything more had to be said to the Jury they brought in such an unexpected verdict."

So ended 'The Case of the Slave Girl and the Councillor's Wife'. The unfortunate girl may not have got justice, but Madras, more fortunately, got a Governor and "the beginning of modern judicial administration". The Agent was raised to the status of Governor and the Agency of Madras thus became a Presidency in 1665. Jury trials were abolished by the Government of India in 1960 on the grounds that jurors would be susceptible to media and public influence. (This decision was based on an 8:1 acquittal of Kawas Nanavati in K.M. Nanavati vs. State of Maharashtra, which was overturned by higher courts on the grounds that the jury was misled by the presiding judge.)

The Governor or the Agent was the first member of the Council followed by the Book-keeper, the Warehouse-keeper and the 'Customer'. The duty of the 'Customer' was to collect all the customs, rents and other taxes, but he also sat as the Justice of Peace in the Black Town. His administration of justice was of primitive character; as magistrate of the Black Town, he flogged, imprisoned, or fined at his discretion.

Between 1670 and 1677, many rules on behaviour were laid down during the Governorship of Sir William Langhorne. For instance, drinking and drunkenness were punished with fines and stocks. All people who were addicted to any social evil were to be imprisoned at the discretion of the Governor and, if not reclaimed, sent back to England.

Court of Judicature

In 1677, Streynsham Master became the Governor. Master framed rules for the better administration of justice. Two English officials were appointed as Choultry Justices to administer justice to the Indian inhabitants and their numbers were increased subsequently. The Governor himself began to sit as a judge, thus forming an appellate court.

To meet the shortcomings of the Choultry Court, Master established the Court of Judicature in Madras. The Court of Judicature was inaugurated on March 27, 1678 at a public function. March 27, 1678 saw the first sitting of the Agent and Council in the Court of Judicature which sat in the Chapel in the Fort in the matter of Mr. John Tivill, Plaintiff, and Mr. William Jearsey, Defendant. The same case also provided for the first trial by jury in the Court of Judicature on April 10, 1678. Cases were decided according to the Laws of England. Simultaneously, the Choultry Court was re-organised. After 1678, the Justices of the Choultry also acted as the Court of Execution, because constables were attached to the Choultry Court. The judges and constables under the Choultry were to execute all orders of court relating to writs, summonses, jurymen, execution and apprehension of criminals. In cases of manslaughter and murder, the delinquents were kept in prison for a year and sent home for trial in an English court.

During these periods, foreign nationals were generally sent back home for trial. However, in the case of Manoel Brandon de Lima, a Portuguese inhabitant, who was tried for the murder of a "Black Christian", it was decided that the case would be tried in the Court of Judicature rather than be sent to England or Goa in order to set an example of fair trial in the Court of Judicature. de Lima was convicted of murder but was sent home on appeal. The appeal petition was signed by 44 of the Portuguese inhabitants of Madras. This was the first noted instance of a foreign national being tried by the Court of Judicature.

Collet was Governor in 1717-1720 and his administration was remarkable for changes in the marriage laws laid down by Streynsham Master.

Admiralty Court

The charter of 1600 granted a trade monopoly to the

Company which was being infringed on a large scale by the 'interlopers' (independent merchants), indulging in unauthorised trade and traffic against the tenor of the grant and, as a consequence, the Company suffered great loss. Further, the crime of piracy was also rampant on the high seas. To deal effectively with these evils, need was felt to establish courts having jurisdiction to try maritime cases. Consequently, on August 9, 1683, Charles II granted a charter to the Company authorising it to establish one or more courts at such place or places as it might direct.

The provisions of Charles II's charter of 1683 were repeated in a fresh charter issued by James II on April 12, 1686, which prescribed a civil lawyer to head the Admiralty Court. The reason for the charter to prescribe a 'civil' rather than a 'common' lawyer as the head of the Admiralty Court was that Admiralty Law was international in character, being founded on the Civil Law and Law of Nations rather than the Common Law of England, "for ships are no respecters of frontiers". Further, in 1683, English Common Law was practically devoid of rules governing mercantile cases. Mercantile Law in 1683 could be regarded as an amalgamation of mercantile customs, the base of which was Roman Law. Similarly, Maritime Law was based on Admiralty principles, which involved knowledge of Roman Law. The charter desired the appointment of a civil lawyer, as Roman Law formed the basis of Mercantile as well as Maritime Law. The Chief Judge of the Admiralty Court was known as the Judge-Advocate.

Under these provisions, a Court of Admiralty was started in Madras on July 10, 1686, with John Hill appointed as the Attorney General of the Court. The Admiralty Court consisted of three members of the Governor's Council. Occasionally, the Governor and Council held trials to enforce 'Law Martial' under the authority of the above-mentioned charter. Thus, Martial Law was declared in Madras on November 17, 1687, and the Governor and Council held trial of several fugitives from the ship *James* who had committed piracies. During this period, the Justice of the Peace continued to function at the Choultry.

In 1687, the Company sent from England Sir John Biggs, a professional lawyer learned in the Civil Law, to act as the Judge-Advocate. On July 22, 1687 he became the first legally qualified person to take up duties as Judge-Advocate. With the arrival of a professional lawyer on the scene, the Admiralty Court started to function properly and in right earnest. The Governor and Council thereafter relinquished their judicial functions, which they had been practising as a general court of the land and not one confined merely to maritime and admiralty cases as was envisaged by its charter. They had exercised a much wider jurisdiction and dispensed justice in all cases – civil, criminal, maritime and mercantile – and had used a jury in criminal cases but not in civil cases. The year 1687 may thus be said to be doubly important for two reasons: firstly, a professional lawyer came on the scene to administer justice; and secondly, the executive gave up judicial functions in favour of the Admiralty Court. But after the death of Sir John Biggs in 1689, there were no other qualified persons available to take his place and the Court once again had its share of problems.

The Mayor's Court

The charter dated August 9, 1683 granted by Charles II emphasised the qualifications of the persons to preside in court. In 1687, the East India Company issued a Charter dated December 30th, by which they "constituted the town of Fort St. George and all the territories thereunto belonging, not exceeding the distance of ten miles from Fort St. George, to be a Corporation." The Corporation was inaugurated with due solemnity on September 29, 1688, when the Mayor, Aldermen and Burgesses took their oaths. The Charter constituted the Mayor and Aldermen as a Court of Record. Appeal against the order of the Mayor's Court was to the Admiralty Court when the value of the subject matter was approximately 3 pagodas. In terms of the Charter, the Mayor's Court was duly constituted in Madras in 1688. The Charter empowered the Mayor's Court to dispense justice "in summary way according to justice and good conscience".

The Mayor and Corporation were established by the Charter of 1687. The Corporation which came into existence from October 29, 1688, consisted of the Mayor, twelve Aldermen and sixty or more Burgesses. The Mayor and Aldermen were to be a "Court of Record within the Town of Fort St. George and City of Madrassapatam and the Precincts thereof." The Mayor of the said Corporation was also to be the Justice of the Peace within the precincts of the said Corporation. Three senior Aldermen were also to be Justices of the Peace. The Mayor's Court was empowered to try all causes, civil or criminal. Right of appeal lay to the Mayor's Court in civil cases when the value of the award exceeded three pagodas, and in criminal cases if the offender was sentenced to lose his life or limb. The Mayor and Aldermen might nominate "one discreet Person skilfull in the Laws," being an English-born covenanted servant, to be Recorder of the Corporation,

but the first Recorder was to be "Sir John Biggs, Knight, Judge of our Supreme Court of Judicature." The Mayor's Court was authorised to deal with offences by fine, imprisonment or corporal punishment. It was also decided that the Court would have a Marshal who would take charge of the prisoners, the first Marshal being Robert Bayly.

After the Mayor's Court came on the scene, the Choultry Court lost its importance and functioned as a Court of Petty Jurisdiction, trying only small offences and civil cases. Only an Englishman could hold the office of Mayor and only an Englishman skilful in law was to be appointed as Recorder of the Court by the Mayor and Aldermen. The Mayor was empowered to try all cases, civil or criminal. The Mayor's Court was a court of conscience, and its decisions were very irregular. The Court was authorised to punish offences with fine, imprisonment or corporal punishment. The Mayor's Court could also punish persons for contempt and award death sentences too.

In 1702, two men were charged with piracy on the high seas and stealing 3000 pagodas. The Judge-Advocate condemned both of them to death. In a case of mutiny at sea, Harrison's Council decided that the Mayor's Court could, under the charter, sentence criminals to execution by a majority of votes and hang the executed in chains to deter others from committing such crimes. Martin, the then Chief Justice of the Choultry Court, pointed out that the maintenance of criminals in prisons was a burden on the Company and it suffered greater punishment than the one who committed the offence. Criminals as well as debtors seem to have been committed to prison for indefinite periods. Debtor-prisoners were confined in the bastions in the north-west angle of the northern wall, while criminals were put in another bastion in the same wall; and even today the street next to the demolished north wall, of which some remnants remain in the compound of the Bharathi Women's College, is called the Old Jail Street.

In 1704, the then Marshall Council, after his return from England, decided that the office of the Judge should remain vacant and appeals against the decisions of the Mayor's Court and Admiralty Court were to be heard by the President in Council.

Thus, from 1686 to 1726, there functioned in Madras the Choultry Court, the Mayor's Court and, for sometime, the Admiralty Court. The Mayor's Court was merely a Company court having been established by the Company's charter. So long as the Admiralty Court functioned, the Governor and Council as such exercised no judicial powers. While there was a separation between the Admiralty Court and the executive, the same was not true of the Mayor's Court, as some of the Aldermen were members of the Council. When, however, the Admiralty Court became irregular after 1704, the Governor and Council became active as an Appellate Court to hear appeals from the decisions of the Mayor's Court. The courts that functioned during this period were, to a great extent, devoid of professionals trained in law.

The Charter of 1726

The charter issued to the Company by King George I on September 24, 1726 turned over a new leaf in the evolution of judicial institutions in the three Presidency Towns of Calcutta, Madras and Bombay. The charter of 1726 followed the model of the Madras charter of 1687 insofar as both created the Corporations and the Mayor's Courts, but there were some notable differences between the two charters. The courts now derived their authority directly from the British Crown and not from the Company. The charter established separate civil and criminal courts in the three Presidency towns. The Mayor's Court established under the new charter could only try civil cases.

As these courts derived their authority from the British Crown, they were designated as Royal Courts in the true sense of the term. The status of the courts prior to 1726 was very vague and indefinite. The charter of 1726 introduced uniformity of approach in this respect, as in each Presidency town similar judicial institutions were established and even the subsequent developments followed more or less a similar course. The new civil and criminal courts had more formal, regular, and definite bases. The advantage of having Royal Courts in India was that their decisions were as authoritative as those of the courts in England, because the source of authority for both was the same, the sovereign, regarded as the fountain of justice.

Further, the charter of 1726 initiated the system of appeals against the courts in India to the Privy Council in England. In the heyday of the British Empire, the Privy Council, or King-in-Council, or, rather, its judicial committee, heard appeals from the courts of some 150 countries in all manner of cases, civil and criminal, and applied not merely English law but diverse systems of law. After the Norman conquest of England in 1066, the King-in-Council came to be regarded as the court of last resort throughout his realm in case of defaults, defects, or miscarriages of justice perpetrated in the lower courts. The jurisdiction of the King-in-Council to entertain appeals from courts in the King's dominions

was primarily based on the royal prerogative of the sovereign as fountain of justice and there was thus established a bridge between the English and Indian legal systems. A channel for the reception of the English law into India was created and this resulted in English law making a deep impact on, and profoundly influencing, the existing Indian law. The Privy Council saw to it that wherever the Indian law was deficient or wanting and, wherever it was possible, principles of English law were applied by the courts to decide on disputes. The result of this approach was that in 1833, when codification of the Indian law was initiated, English law could be accepted as the foundation of the Indian law, as it did not seem to be a foreign system to India. In addition, the charter of 1726 also established a local legislature in each Presidency Town and, thus, the locus of legislative power was shifted from England to India. This was an important development, for it now became possible to make laws consistent with local needs. Last, but not the least, the charter had an important bearing on the question of the date of introduction of English law into the Presidency towns.

Initially, the judicial functions of the King-in-Council, or Privy Council as it was generally called, were not of much importance. But as the colonies grew and developed from the 17th Century onwards, the Privy Council's judicial function assumed a crucial importance. As regards the courts of India, the Privy Council, or the judicial committee of the Privy Council, as it came to be called officially after 1833, acted as the highest court of appeal for over two centuries.

After removing the old Mayor's Court, the new Mayor's Court, Madras, was established in 1726. In 1726, for the first time, a right to appeal to the King-in-Council against verdicts of the courts in India was introduced. The quorum of the court was to be three – the Mayor or senior Alderman, along with two Aldermen. The court was to have jurisdiction to try all civil suits arising within the town and its subordinate factories. The charter issued to the Company by King George I in that year establishing the Mayor's Court in the three Presidency towns made provisions for appeal to the King-in-Council. The first appeal from the Mayor's Court lay to the Governor and Council and was to be final in all cases where the subject matter was upto 1000 pagodas. In cases where the amount exceeded 1000 pagodas, appeal from the Governor and Council lay to the King-in-Council. The appeal could be made within 14 days from the date on which the judgment appealed from was entered in the record. The court also had Testamentary Jurisdiction and granted Probate of Wills and Letters of Administration to the property of the deceased. The Mayor's Court was to act as a Court of Records and, thus, had powers to punish in cases of contempt.

There were certain defects in the constitution of the Privy Council: (i) For a long while it was staffed by English Judges only; (ii) Located in England, its appellate jurisdiction was considered a symbol of slavery; (iii) The absence of local knowledge of the court and the counsel engaged in England was a great hindrance and disadvantage to the litigant; (iv) Consequently, Indian points could not be appreciated; (v) It put the poor at still great disadvantage; and (vi) In certain cases its view was not impartial.

K.M. Munshi, an eminent member of the legal profession, a member of the Constituent Assembly and a statesman of India, speaking on the occasion of the abolition of the Privy Council's jurisdiction over India, said:

"The British Parliament and the Privy Council are the two great institutions which the Anglo-Saxon race has given to mankind. The Privy Council during the last two centuries has not only laid down law, but co-ordinated the concept of right and obligations throughout all the dominions and the colonies in the British Commonwealth. So far as India is concerned, the role of the Privy Council has been a most important one. It has been a great unifying force and for us Indians it became the instrument and embodiment of the rule of law, a concept on which alone we have based the democratic institutions which we have set up in our Constitution."

Abolition of *sati*

Lord William Cavendish Bentinck, Governor-General of India (1828 to 1835), promulgated the regulation banning the practice of *sati* in 1829.

In 1807 when Bentinck was the Governor of Madras (1803 to 1807), the Directors of the East Indian Company had decided that Bentinck was personally responsible for a mutiny amongst the sepoys in Vellore over the issue of headgear that was thought to infringe on Hindu religious customs. They recalled him in disgrace to London. This earlier experience probably influenced Bentinck when he became the Governor-General to move cautiously in reaching a decision on the highly controversial ritual of *sati*.

Influenced by the utilitarian doctrines of James Mill, Bentinck had acquired a reputation as a liberal – even radical – reformer before he arrived in India in 1828, when British policy toward *sati* was a hotly debated topic. In response to claims that the British legalisation

on *sati* (if voluntary) in 1813 had actually increased the number of deaths by *sati*, Bentinck requested reports from British district officials about the occurrence of *sati* and solicited the opinions of the Hindu elite in Calcutta about the legitimacy of the ritual. In November 1829, he circulated a minute in which he outlined his reasons for deciding to prohibit the ritual of *sati*. In this minute, written a year after his arrival, Bentinck provided reasons why the British first allowed *sati*, if it were legal, and then the justification for his decision to prohibit the practice and, thus, reverse the policies of his predecessors.

The next month, Bentinck and his Council promulgated a regulation declaring the practice of *sati* to be illegal and punishable in British criminal courts. Lord Bentinck was assisted by an Executive Council of three British officers in formulating the policies to govern the Company's political possessions in India. First, he had to convince his councillors of the validity of his decision to prohibit *sati* so that they would vote to support his position. Then, they collectively issued a regulation that became the law within the areas that the Company directly ruled, which included about one-third of the Indian subcontinent in 1829.

Even before the regulation was out, some three hundred orthodox Hindus petitioned Lord Bentinck to stop the abolition. They pleaded that the practice of self-immolation was not merely a sacred duty but a "privilege" of believers. Bentinck, however, would not relent.

The sequence of events that followed was an eerie precursor to the events after Roop Kanwar's *sati* in 1987. Orthodox Bengali Brahmins formed themselves into the Dharma Sabha, just as today we have the Dharam Raksha Samiti in Rajasthan. In all, they collected more than Rs.30,000, a huge sum in those days, to fight the regulation all the way upto the highest court. By contrast, Raja Ram Mohan Roy was given Rs.5,000 to assist the government in their representations before the Privy Council in England. Both sides gathered petitions and pamphleteered extensively.

In 1832, the appeal was heard by the Privy Council. The petitioners argued that it went against the basic assurance given in George III Statute 37 whereby the Hindus were assured complete non-interference in their religion. The abolitionists argued that there was really no freedom of religion that could go beyond what was "compatible with the paramount claims of humanity and justice." Of seven privy councillors, three finally voted against Bentinck's regulation, but in the end it was upheld.

With the last hurdle cleared, Madras and then Bombay followed suit with their own legislation banning *sati*.

Sheriff's Court

To curtail appeals in Small Causes, a new Court of Small Causes called the 'Sheriff's Court' was created in November 1727. However, the Sheriff's Court found no favour with the Directors of the Company. On July 21, 1729, the Sheriff's Court was abolished, and the Justices of Peace again sat at the Choultry.

The Charter of 1753

During the period of the French occupation of Madras, 1746 to 1749, the Madras Corporation that had been established under the charter of 1726 ceased to function. A fresh charter was necessary to revive the old institutions.

Accordingly, King George II issued a charter on January 8, 1753. The Company utilised this opportunity to remove the defects which had been experienced in the working of the old charter. The new charter was made applicable uniformly to all three Presidency towns.

The charter of 1726 conferred powers of legislation on the governments of the three Presidency towns. The charter of 1753 continued these powers. Under these provisions, the government of each Presidency town could frame laws and rules for the settlement, subject to certain restrictions. The charter also made certain changes in the method of election of the mayor and the aldermen. Under the 1726 charter, the power of appointment of the mayor and aldermen largely vested in the Governor and Council. The power of dismissal already vested with the Government made the Mayor's Court subordinate to the executive. The court was debarred from maintaining a suit and action between the natives unless they consented to it. The charter made a provision whereby the Mayor's Court was authorised to bring an action against the Mayor. The charter also insisted on the Rule against Bias; no person could be a judge in a case in which he had a personal interest. The Mayor's Court was specifically empowered to hear suits against the Company and such suits were to be defended by the Government. Those filing suits were henceforth required to deposit money with the Government and not with the court.

The charter of 1753 also created a new court called the Court of Request in the three Presidency towns to decide cheaply, summarily and quickly cases up to 5 pagodas. The underlying idea was to help poor litigants with small claims who could not defray the expenses of litigation at the Mayor's Court. To discourage the

litigants from resorting to the Mayor's Court to pursue small claims, it was laid down that if a case cognisable by the Court of Request was brought before the Mayor's Court, the plaintiff was not to get any costs and, instead, the defendant was to be awarded the costs. Though the jurisdiction of the Court of Request was confined to small matters, it extended over all inhabitants and, unlike the Mayor's Court, it could decide cases arising among Indians. The new arrangement was one of great convenience and utility and found to be beneficial and convenient for deciding petty civil suits quickly and cheaply. It proved to be of great help to poor litigants, mostly Indians, who used to be involved in petty cases. The Court of Request, like the Mayor's Court, sat in the Town Hall. It was the equivalent of today's Court of Small Causes.

The Court of Request continued under the charter of 1774, which made it subordinate to the Supreme Court at Calcutta. The monetary jurisdiction of the Court was enlarged under the charter of 1797 to Rs. 80 and, in 1802, it was enlarged to Rs.100. By a proclamation dated October 29, 1819, its jurisdiction was further extended and the maximum limit was fixed at Rs.400. The Supreme Court was authorised to supervise these courts in the same manner as the inferior courts in England were made subject to the order and control of the court of Queen's Bench.

In 1850, the Small Causes Court was established after the abolition of the Mayor's Court and the Recorder's Court in the three Presidency towns. These new courts were given the status of the Court of Record. Their jurisdiction was further extended to Rs.500. It was within the powers of the Small Causes Courts to reserve any question of law or equity for the Supreme Court's opinion. All suits brought before the Small Causes Courts were heard and decided in a summary way. The creation of courts with exclusive jurisdiction over petty causes with power to give a final decision in respect of such causes saved a good deal of public time as well as it enabled the higher courts to devote more time for cases involving complicated questions of law and fact.

The Presidency Towns Small Causes Courts Act was passed in 1864. It extended the jurisdiction of these courts to cases concerning the recovery of any debt, damage or reward involving even more than Rs.500 but not exceeding Rs.1000, provided that the cause of action had arisen or the defendant at the time of bringing the action was dwelling or carrying on business or personally working for gain within the local limits of the court's jurisdiction.

The Act of 1882 was passed wherein a new Presidency Small Causes Court was formed to remove certain defects which came to light in its actual working. The Act repealed all prior enactments and constituted the Small Causes Courts in the Presidency towns of Bombay, Calcutta and Madras, subject to various exceptions as specified in the Act.

In 1860, Mofussil Small Causes Courts, or Provincial Small Causes Courts, were established. The law was amended in 1865. The Provincial Small Causes Courts Act was passed in 1887. It reconstituted the Courts of Small Causes established beyond the local limits of the ordinary original civil jurisdiction of High Courts of Judicature in Bengal, Madras and Bombay. Its object was to ensure speedy administration of justice in small suits of a pecuniary nature and which were comparatively simple. The value of the contribution of a Court of Small Causes lies in the fact that justice is administered without much delay and the parties get an early decision on the disputed matter with the result that a petty litigation is saved from undue and unnecessary procrastination.

The Board of Police

In 1770, Du Pre became the Governor of Madras. His Council resolved to constitute a Board of Police, foreseeing that good results must ensue and that good governance of the settlement and inhabitants cannot be attended to without it. Rev. Mr. Benjamin Salamon was the First Secretary. The proceedings of the Board of Police were recorded in Public Sundries. At its meeting on March 28, 1770, the Board resolved to establish a court for determining disputes dependent on the customs of the Indians, and the Committee of Works was requested to furnish a plan of, and fix a site for, such a 'Cutcherry'. Before proceeding with the questions of provisions and servants, the Board invited the inhabitants to meet at the Admiralty and elect a standing committee of five persons to assist them. The Board of Police was dissolved on March 18, 1771 after being in existence for a year.

The Regulating Act of 1773

The Regulating Act of 1773 was introduced by Lord North on May 18, 1773 in the House of Commons as a Regulating Bill. The main objectives were: (i) To reform the constitution of the Company; (ii) To reform the Company's government in India; and (iii) To provide remedies against illegalities and oppressions committed by the servants of the Company in India. When the Bill was introduced in the House of Commons, it was

severely criticised. Edmund Burke denounced it as "an infringement of national right, national faith and national justice." The Bill was ultimately passed with an overwhelming majority in the House of Commons on June 10, 1773 and, subsequently, by the House of Lords. It received the Royal assent on June 21, 1773.

Lord North's 'Regulating Act' made Warren Hastings, the then Governor of Bengal, Governor-General of India, with control over the other two Presidencies. However, he was given only one vote in the newly-created Council (consisting of four persons in addition to himself), with a casting vote only in cases of equal division of votes. The same Act created a Supreme Court of four judges to administer English law to British subjects in India. The Supreme Court was the fusion of Admiralty and Recorder's Courts of 1796.

The powers of Madras and Bombay Governments were still regulated by the provisions of the charter of 1753. To introduce uniformity in the system of making laws for the three Presidency towns, it was thought expedient to grant to the Governments of Bombay and Madras also the same powers as were vested in the Governor-General-in-Council for governance in Calcutta.

The Presidencies of Bombay and Madras were placed under the control and superintendence of the Governor-General-in-Council while exercising their powers to make war and peace. The Governor-General and the Council were to keep the Court of Directors fully informed of all their activities affecting the interests of the Company and they were also to work in entire obedience to the orders and instructions of the Court of Directors.

The Recorder's Court of 1798

After the abolition of the Mayor's Court in 1798, in its place and in the same year the Recorder's Court was established. In 1791, the Madras Council suggested that appeals from the courts in Madras might be allowed to be taken to the Supreme Court at Calcutta, instead of being carried to England, which created a delay that was harmful to the just suitors but favoured the protractors. To remedy the defect at least partially, the British Parliament enacted an Act in 1797 authorising the Crown to issue charters to establish Recorder's Courts in Bombay and Madras, in place of the prevailing judicial system. On February 1, 1798, King George III issued charters for the purpose of creating these courts.

In Madras, the Recorder's Court started functioning from November 1, 1798, with Sir Thomas Strange being the first Recorder in Madras. Sir Thomas Strange, the son of Sir Robert Strange, was called to the Bar in 1785 and, six years later, was appointed Chief Justice of Nova Scotia. He was recalled to England from there and knighted on appointment as the Recorder of Madras and President of the Court of the Mayor and Aldermen under the charter of 1798. When the Recorder's Court gave way to a Supreme Court in Madras in 1801, he was its first Chief Justice and adorned the position for 17 years before resigning and returning to England.

The Recorder's Court in Bombay consisted of a Mayor, three Aldermen and a Recorder appointed by the Crown. The Recorder was required to be a barrister of England or Ireland, with not less than 5 years' standing. In fact, the Recorder was the real judicial authority to enlighten the court on the legal provisions applicable in each case. In 1798, Sir William Syer was appointed the first Recorder of Bombay. At that time, about a dozen persons were admitted and enrolled as advocates and attorneys of the Court. Each of them was also sworn in as a notary public from the moment of his enrolment till the Supreme Court of Madras was established. The 12 advocates and attorneys of the court constituted the Bar of Madras.

The Supreme Court of Judicature

The Act of 1797 established the Recorder Courts. The Recorder's Court in Madras did not enjoy a long span of life. In 1800, the British Parliament passed an Act authorising the Crown to establish the Supreme Court by a Royal charter in place of the Recorder's Court. On December 26, 1800, King George III issued the Letters Patent[1] setting up the Supreme Court in Madras. It came into being on September 4, 1801. The new Supreme Court was to be a Court of Record. It was vested with a jurisdiction similar to the jurisdiction of the King's Bench in England.

Adalat System

An *adalat* system was created in 1802 during the governorship of Lord Clive. This system closely followed the pattern of the Cornwallis scheme of 1793. The main feature of the scheme was that the offices of the Diwani Judge and the Collector were to be held by different persons. Prior to that, administration of justice was vested with the Collectors. This was found to be inconvenient inasmuch as acts done in one capacity came often to be reviewed and decided upon in the first

[1] An official document written, executed and sealed by which power and authority granted to a person to do some act, or enjoy some right under the laws of the country.

instance in the other capacity. Further, the Collectors were otherwise disqualified for judicial duties from other calls of their office. A Diwani Adalat was established in each district for administration of civil justice. It could try any civil suit in the first instance without any monetary limitation. It was to try revenue cases also. The Collectors and other executive officers were to be amenable to the Adalat for acts done in their official capacity against any regulation. The judge of the district adalat was to be assisted by Indian law officers to expound the Hindu law or the Mohammedan law according to the religious persuasion of the parties involved in the case. In other cases, the decisions were to be according to justice, equity and good conscience. The decisions of the Adalat were to be final in cases of upto Rs.1,000; in cases of a higher value, an appeal was laid to the Provincial Court of Appeal.

Four Provincial Courts were established to hear appeals against the Diwani Adalats. The Provincial Courts of Appeals' decisions were final in cases of upto Rs. 5,000. Above that amount, further appeal was to the Sudder Diwani Adalat which was to consist of the Governor and Council as Judges. In cases involving Rs.45,000 or over, a further appeal could be made to the Governor-General and Council at Calcutta. This system of appeals was an innovation in the case of Madras. In the interiors of districts, native commissioners were appointed with power to try suits for sums of money or personal property upto Rs. 80 in value, and appeals from their decisions lay to the district Diwani Adalats. The registrars attached to the Diwani Adalats could try cases or hear appeals against the native commissioners involving a subject matter upto Rs. 200. Their decisions were final upto Rs. 25; in cases over that value, an appeal lay with the Diwani Adalat. Provisions were made for appointment of vakils or native pleaders in civil courts. Hindu and Mohammedan law officers of the various courts were appointed by the Governor and Council and they were given a security of tenure as they could be removed only for incapacity or misconduct in performing public duty and for any act of flagrant profligacy in their private conduct.

The administration of criminal justice in the mofussil was administered through magistrates and assistant magistrates. The Foujdari Adalat, or the Chief Criminal Court, consisted of the Governor and members of the Council. In 1806, Zilla Courts were established in the districts. In 1818, the Governor-General formally relinquished his right of hearing appeals from the Sudder Adalat in Madras. In 1820, by a statute, the Company's courts were vested with jurisdiction to hear "Suits brought by Natives against British subjects residing, trading or holding immovable property in the interior." But, in 1836, the right of appeal to the Supreme Court from the mofussil court was taken away. The barristers and attorneys practised in the Supreme Court and the vakils practised in the Sudder Courts.

In 1807, Parliament passed a law empowering the Governor and Councils at Madras and Bombay to make and issue such rules and regulations for the good order and governance of Madras and Bombay as the Governor in Council might make for the good order and civil government of Fort William. Such laws had to be registered in the Supreme Court in Madras and the Recorder's Court in Bombay. All other restrictions which existed in respect of the Governor-General-in-Council had to be observed by the Governments of Bombay and Madras as well. The Governor and members of the Councils at Madras and Bombay were authorised to act as Justices of Peace for those towns respectively and hold quarter sessions. They were also empowered to issue commissions under the seal of the respective Supreme Courts, appointing British subjects or Company's servants as justices of peace in the mofussils.

The Cornwallis Reforms

Lord Cornwallis, who succeeded Warren Hastings, came to India in September 1786 and continued as Governor-General upto 1793. He imposed conditions before accepting his appointment as Governor-General: that the Governor-General will have power to override his Council, and that the office of the Governor-General and the Commander-in-Chief will be united under one person. The Governor-General and Council became the Governor-General-in-Council and this position continued upto 1947. During his period, he introduced several important changes in the judicial system in India. Reforms were introduced by a method of trial and error, both in civil and criminal justice administrations, thereby combating corruption.

The reforms brought in the criminal courts, and the magisterial powers of the Collectors were taken away and the judges of the Diwani Adalats were empowered to exercise their jurisdiction. The judges exercised magisterial powers together with their civil jurisdiction. The only thing the Collector was to look after was collection of revenues in his district.

At the same time, Cornwallis realised the importance of well-organised and regulated professional lawyers. The profession of law was created and organised in India by Regulation VII of 1793 in order to assist illiterate litigants who were unaware of the technical

procedure of the courts and also the technicalities of law. Those who joined the legal profession were given certificates after they qualified in the prescribed minimum requirements of education and honesty.

Punishment was given to those found guilty of misconduct including misbehaviour. If any persons were found to be charging exorbitant fees, then they could be dismissed. Many reforms were introduced under the Regulations of 1793. Sir George Barlow assisted Cornwallis in drafting a single set of 48 regulations, which was printed and issued on May 1, 1793. The set was known as the 'Cornwallis Code'. The code gained great reputation amongst the Anglo-Indian administrators, so much so that in 1797-1799 it was introduced in Bombay and then forced upon Madras in 1802.

Lord Cornwallis introduced reforms to meet existing needs and also as per instructions from England which he implemented as commands of superiors. Cornwallis, to a great extent, built the Empire on the foundations laid by his predecessors, especially by Warren Hastings.

The following courts came into existence during the period of Cornwallis:

Courts

Civil	*Criminal*
Sadar Diwani Adalat	Sadar Nizamat Adalat
Provisional Court of Appeal (Divisional Level)	Circuit Court (Touring)
Mofussil Diwani Adalat (District Level)	Mofussil Diwani Adalat (District Level)
Munsiffs & Registrars	Magistrates (Collectors)

Panchayat system

When the ancient system of panchayats, a village body of elected representatives, was re-introduced in 1816, there were many objections to it in other parts of the country. However, in Madras, the principle of local devolution was carried somewhat further than in other provinces. At the bottom were the Union Panchayats, or Village Committees, whose chief duty was to attend to the village's social, cultural and economic life. Above them came Taluk or Sub-Divisional Boards. The panchayat's council leader was named *sarpanch*, and each member was a *panch*. The panchayat would act as a conduit between the local government and the people. Decisions were taken by a majority vote (*bahumat*) and were generally welcomed by the villagers. It is said that in such a system each villager voiced his opinion on the governance of his village. This system, which evolved in ancient India, is one of the oldest democratic systems still in use today.

Functions of Collectors as Magistrates

In 1821, Lord Hastings introduced a policy transferring the magisterial functions in criminal matters to the Collectors, which undermined the scheme of Cornwallis. Lord Cornwallis was against any merger of Executive and Judicial functions, at least at the lower stages, because he feared that the officers might misuse powers to harass the poor tenants in the country while collecting land revenue.

Lord Hastings challenged this policy with his scheme of Regulation IV of 1821. The Collectors were made the Principal Officers of the Districts instead of the District Judges as was envisaged by Cornwallis. The Regulation empowered the Governor-General-in-Council to authorise a Collector, or any other Revenue Officer, to exercise the whole or part of the powers and duties of a Magistrate and, in turn, to employ a Magistrate in the collection of land revenue. The Regulation was merely permissive and did not itself effect the change all at once. The Regulation only empowered the Government to vest Magisterial powers in the Collectors.

The Regulation did not state any reason for effecting such a fundamental change in the administrative policy. That the Government thought that such a change would be 'expedient' was all that was stated in the preamble to the Regulation. The immediate reason for the step taken was to reduce the pressure on the Judge-Magistrates by increasing the number of Magistrates in the Districts.

Judicial Commission

The Court of Directors appointed a Judicial Commission with Sir Thomas Munro as its President in 1814. Several reforms in the administrative system were made by the Commission. Sir Thomas Munro became the Governor of Madras in 1820 and continued till 1827. The specific purpose underlying the step was that the Commission would help the Madras Government in implementing the suggestions made by the Directors. The Munro Commission conducted extensive investigations in the prevailing state in Madras. On the advice of the Commission, a major reconstruction of the judicial system took place in 1816 when a number of Regulations were enacted. 1816 also witnessed the creation of two new institutions. Village Headmen or

patels were appointed as village munsiffs in their respective villages having authority to give final decisions on suits of money or personal property disputes upto Rs.10.

Law Commission

In 1833, a charter was introduced which made provision for the inclusion of a Law Member in the Governor in Council. Macaulay, the first Law Member appointed by the charter of 1833, was of the opinion that the system should be uniform as far as possible and that no distinction ought to be made between one class of people and another except in cases where it could be clearly made out that such a distinction was necessary for pure and efficient administration of justice. Macaulay stated that there was "the semblance of partiality and tyranny" in the distinction.

The first Law Commission was constituted in 1834 which prepared the draft for codification of the penal law. It was followed by the second Law Commission. The Code of Civil Procedure, the Indian Penal Code and the Code of Criminal Procedure were enacted in 1859, 1860 and 1861, respectively. In 1834, the last vestiges of discrimination in civil matters were removed in Bengal.

In 1843, the Provincial Courts of Appeal were replaced with new Zilla Courts with original jurisdiction of value less than ten thousand rupees. Appeals from the new Zilla Courts would lie to the Sudder Adalat.

From 1801 to 1862, courts of two distinct descriptions existed in the Presidency of Madras: (1) the courts established under and by the statutes and charters of the justice granted by Royal authority and presided over by judges appointed by the monarch of England, and (2) the other courts established by the authority of, and presided over by, judges appointed by the East India Company, which were usually denominated as the "Sudder and Mofussil Courts, the Company's Courts or the Courts for the Provinces."

The High Court

The Madras High Court came into existence as a result of the passing of the Indian High Courts Act of 1861. The Madras High Court, one of the three oldest in the country, was established along with the two other chartered High Courts of Bombay and Calcutta in 1862 under the Indian High Courts Act, 1861, passed by British Parliament. The High Court of Judicature in Madras was opened on August 16, 1862, and since then has been functioning as a court of law and equity. This Court was to be supreme over all courts, both of the Presidency and mofussil. The powers and jurisdiction of the High Courts so established were fixed by the Letters Patent, thereby constituting the court.

The Indian High Courts Act of 1861 was titled as "An Act for establishing High Courts of Judicature in India". It was a piece of legislation consisting of 19 sections in all. Its main function was to abolish the Supreme Courts and the Sudder Adalats in the three Presidencies and, in their stead, establish the High Courts. The High Court consisted of a Chief Justice and not more than 15 puisne judges (pronounced 'puny', the title for a regular member of the Court as distinguished from the head of the Court who is the Chief Justice). It was laid down that not less than one-third of the judges in the high court, including the Chief Justice, were to be barristers and not less than one-third of the judges were to be members of the covenanted civil service.

The High Court was to have and exercise all such civil, criminal, admiralty and vice-admiralty, testamentary, intestate and matrimonial jurisdiction, original and appellate, and all such powers and authority for and in relation to the administration of justice in the Presidency for which it was established. The High Court was given the power of superintendence over all other courts within its appellate jurisdiction. It also had power to call for returns, to transfer any suit or appeal from one court to another, and to make and issue general rules for the regulation of the practice and proceedings of such courts. The establishment of the High Courts in 1862 was a conspicuous landmark, an event of unique importance and the precursor of the modern era of law and justice.

Dr. P.V. Rajamannar was the First Chief Justice of Madras after Independence and the architect of the judicial set-up in this state. Sir T. Muthuswamy Iyer was the first Indian to be appointed as a judge of the Madras High Court. Sir Abdur Rahim was the first Muslim judge to be appointed to the Bench of the Madras High Court when he came from Calcutta in 1908.

A Civil Court was established in Madras under the Madras City Civil Court Act VII of 1892. The court was started to provide some relief to the Madras High Court on its ordinary original civil side and was authorised to decide all civil cases arising within the local limits of Madras town.

On July 12, 1892, the new law courts of Madras (generally called the High Court buildings) were formally opened by the Right Honourable Beilby Baron Wenlock, Governor of Madras.

The Governor arrived at the main entrance of the building to a salute of 17 guns and was received by Sir

Arthur J.H. Collins, K.T., Chief Justice of Madras, Justice Muthuswami Ayyar, K.C.I.E., Justice Parker, Justice Wilkinson and Justice Best, puisne judges of the High Court, J.H. Spring-Branson, Advocate General, P.D. Shaw, Chief Justice of the Small Causes Court, Dewan Bahadur P. Srinivasa Rau and N. Subrahmanyam, judges of the Small Causes Court, Colonel J. Pennycuick, R.E., Secretary to Government in the Public Works Department, E. Barclay, Government Solicitor, and H. Irwin, Consulting Architect to Government.

Law Reporting

The Theory of Precedent was firmly established in England. According to this theory, a decision of a higher court on a point of law was binding on all courts subordinate to it. The justification of this theory was that it was also conducive to legal certainty and that it provides a basis for orderly development of legal rules. In spite of some codification, English law was precedent-oriented. The British who presided as judges, and who practised as lawyers in the courts in India, whether of the Crown or the Company, tended to follow the traditional English systems, including the theory of precedent and, therefore, legal reporting of judgements became an important tool in this regard.

Sudder Diwani Adalats' Publications: The Sudder Adalats, the Company's courts which were at the apex of the mofussil judicial system, published its decisions. The reports on cases decided in the Sudder Diwani Adalat at Madras were, however, very few in number. A volume was published in 1843, entitled *Decrees in Appeal Suits Determined in the Court of Sudder Adalat*. It contained select decrees from 1805 to 1826. The cases on Hindu law in this collection are interesting as they throw light on the prevailing doctrines of the Southern school. Decisions in English of the *adalat,* rendered in pursuance of Act XII of 1843, began to be issued from July 1849. Act XII of 1843 directed the Sudder Adalats to record their judgments in English. In 1851, monthly reports of the Madras Sudder Fozdari Adalat began to appear. (In the branch of criminal judicature, the reports were fewer when compared with those of the civil judicature.)

High Court Reports: The High Courts brought in their wake official reports. The first Madras High Court reports were in eight volumes covering the period 1862 to 1875. They constitute a fairly well edited series; the facts are given in full and so also the judgments of the lower courts whenever necessary. Occasionally, though not always, arguments of the counsels are also given. These reports contain some of the best-written judgments of the Madras High Court. Along with these official reports, but competing with them, there came into existence some private publications such as the *Madras Jurist*.

Although the various High Court reports were published through the official agency, there was still no statute dealing with the subject of law reporting. It was also felt to be expedient to diminish the multitude and expense of law reporting in British India and to improve the quality. With this in view, the Indian Law Reports Act was passed in 1875 on the initiative of the Law Member, Hobhouse. The Act authorised the publication of the reports of the cases decided by the High Courts, and also sought to control the indiscriminate citation of cases in the courts.

Official High Court Reports: After the enactment of the Indian Law Reports Act, 1875, it became necessary to have an official series of reports. The Councils of Law Reporting were set up in several High Courts and reports began to be published under the authority of the State Government. The Chief Justice of the High Court nominates a committee with himself or another judge as chairman to supervise the publication of these reports. Each High Court now has a series of *Indian Law Reports* (I.L.R.) for itself. Thus, a case decided by the Madras High Court may be found reported in the I.L.R. Madras. The publication of the I.L.R. series in Madras started in 1876.

Non-Official Reports: The Law Reports Act could not suppress the publication of a large number of private reports. A number of law reports were published by non-official agencies on a commercial basis; they covered a wide range and were published from various points of view. One well-known series of reports is the *Madras Law Journal* which started publications in 1891. The founders of the *Madras Law Journal* were Rai Bahadur Salem Ramaswami Mudaliar, V. Krishnaswami Ayyar, C. Sankaran Nair and P.R. Sundara Ayyar. It contains cases decided in the Madras High Court, Privy Council and Supreme Court (on appeal from the Madras High Court). Another series was the *Madras Weekly Notes* which began publication in 1910.

The most popular present-day private publication, however, is the *All India Reporter* (A.I.R.) published from Nagpur. It started publication in 1922 but brought out volumes from 1914 onwards and continues up-to-date publication. It is issued in monthly parts. It is an omnibus publication, as it seeks to cover all the High Courts, Judicial Commissioners' Courts and the Supreme Court. Earlier, it used to report the decisions of the Privy Council and the Federal Court as well.

There were also a number of reports devoted to specified areas of law like the *Madras Law Journal*'s series of reports on criminal law (*M.L.J. (Criminal)* which was published fortnightly. This series started publication in 1957. The reports included cases decided by the Supreme Court and the High Courts of Madras, Andhra Pradesh, Kerala and Karnataka. The *Supreme Court Journal,* which reports the cases decided by the Supreme Court, was a sister publication of the *Madras Law Journal*. The *All India Reporter* brings out separate publications on labour and industrial cases, income tax reports covering income tax, wealth tax, gift tax, service tax and estate duty, all published by the Company Law Institute of India, Madras.

The Madras Bar

All modern countries have in their systems of administration of justice a strong bar, independent of and answering to the best traditions for probity and usefulness. The Madras Bar is second to none in the whole of India due to the traditions built by its leaders from early times. It has a record of high legal attainments and impressive achievements during the century of its existence. Barristers practising in the High Court formed an association in 1865, three years after the establishment of the High Court. The association was called the Bar Association. From the available records, it is seen that the first meeting of the Association was held on March 14, 1865. To start with, only British barristers were enrolled as members. After a decade or so, Indian barristers were permitted to become members.

In the initial years, the Advocates-General, who were always British, became Presidents of the Association. John Bruce Norton, J.D. Maynes, J.S. Cunningham, P.O. Sullivan, J.H. Spring Branson, Arnold White, John Adams, J.P. Wallace, W. Barton, D. Chamier, E.B. Powell, C.F. Napier, J.H.M. Corbet, T.W. Barton, J.C. Adam, C. Sydney Smith, Nugent Grant, all British members of the Bar, were Presidents of the Association. Of them, J.B. Norton, J.S. Cunningham, P.O. Sullivan, Spring Branson and Arnold White were Advocates-General. Arnold White became the Chief Justice (1899-1914). When the High Court was shifted to its present magnificent home in 1892, a hall was given to the Madras Bar Association.

At a meeting held on April 30, 1898, it was resolved to name the association as the Madras Bar Association.

During World War II, the Madras High Court was shifted to a school in T. Nagar. The association also shifted to T. Nagar on July 6, 1942.

After Independence, the number of barristers dwindled. In 1951, it was decided to admit advocates who obtained law degrees from Indian universities as members.

In the early years of the Madras Bar, there were three main sections: *vakils,* attorneys and barristers. Both barristers and attorneys were allowed to appear and practise in the Supreme Courts, while the *vakils,* who formed the major section of the Sudder Courts, were not allowed to practise in the Supreme Courts. Rules 7 and 8 of the Letters Patent granted by the Crown in 1862 disqualified the *vakils* from "appearing and pleading or acting in any matter of Ordinary Original Jurisdiction of the High Court, Civil or Criminal." Initially only barristers and advocates of England, Ireland and Scotland, were entitled to appear and plead in the original and appellate side of the High Court. They were also entitled to appear and plead in the subordinate courts. The *vakils* of the High Court were not entitled to act or plead on the original side or in appeals from the original side. In 1866, the High Court issued fresh rules providing for admission of advocates, *vakils* and attorneys in the original side. However, the attorneys made a petition to the Chief Justice to cancel the rules issued by the High Court. After hearing elaborate arguments, it was decided that the rules were not *ultra vires* (beyond the scope of legal power or authority of a person) the powers of the High Court. It is clear from this decision that the High Court definitely gave a right of audience to the *vakils* on its original side while the advocates had to be instructed by an attorney. Under the Original Side Rules of 1902, it was again mentioned that the right of audience of the *vakils* was fully in force. A clear and illuminatingly compact judgement was pronounced in *Sullivan vs. Norton*. The powers of the Madras High Court to admit appearance of advocates in the original side were clearly defined. It was held that the rules framed by the High Court of Madras in 1866 under the Letters Patent of 1865, clearly gave the right of audience to the *vakils* on the original side of the High Court. The *vakils* also suffered from lack of audience in insolvency matters. The Indian Insolvency Act of 1848 prohibits persons other than advocates or attorneys from practising in the Insolvency Court and, after the passing of the Insolvency Act of 1909 too, the situation remained the same. This was also the situation in the Aubuthnot Insolvency case (1907) where V. Krishnaswami Aiyar was considered not having the right to be heard (ref. Annexure 2). There was a desire on the part of the *vakils* to seek a definite ruling on the subject from the Madras High Court. Based on the

recommendations of the Chamier Committee, the Central Legislature enacted the Indian Bar Councils Act 1926.

The object of the Act, as stated in its preamble, was to provide for the constitution and incorporation of Bar Councils for certain courts in British India, to confer powers and impose duties on such Bar Councils, and to consolidate and amend the law relating to legal practitioners entitled to practise in such courts. The purpose of the Act thus was to unify the various grades of legal practitioners and to provide some measure of self-government to the Bars attached to the various courts. The Act extended to the whole of British India, but it was applied immediately only to the High Courts of Calcutta, Madras, Bombay, Allahabad and Patna. A Bar Council was to elect a Chairman and a Vice-Chairman but in Madras, Calcutta and Bombay, the Advocate-General was to be ex-officio Chairman of the Bar Council.

The Bar Councils Act passed in 1926, however, came to the aid of *vakils* in insolvency matters. It was laid down that any rule which cut down the right to plead would be repugnant to the provisions of Sections 8 and 14 of the Bar Councils Act. Once and for all, the matter of appearance in insolvency matters was finally decided in favour of the *vakils.*

From the beginning of the formation of the Madras Bar, the Indian section of it suffered from certain disadvantages which were not peculiar to the legal profession alone. Though a few Indians, such as S. Subramania Ayyar and V. Bashyam Ayyangar, impressed the legal world by their legal acumen, the occupants of important posts in the High Court were all Europeans. Till 1907, it was considered that there was a bar against an Indian and a *vakil* holding the office of Advocate-General. This matter was taken up by the Indian section of the Bar with the Secretary of State for India, and it was due to the agitation of the *vakils,* especially of Madras, that it was accepted that Indians and *vakils* were not disqualified from being appointed to the post of Advocate-General. After this change, there was a long line of Advocates-General drawn only from the Bar and that too mostly from among the *vakils.* The Government Pleader's post was also for the first time, albeit for an acting period, given to Sir S. Subramania Ayyar before he was elevated to the Bench. But the Public Prosecutor's post was for a long time held only by Europeans. V.L. Ethiraj was the first Indian to be appointed as Public Prosecutor in 1936.

In 1910, Justice P.R. Sundara Ayyar was the first to deliver a series of lectures on ethics to the apprentices of that year. His lectures were collected in a volume under the name of *Professional Ethics.* From that year onwards, there have been outstanding members of the Bar sought out for their professional ethics and conduct. K.V. Krishnaswami Ayyar, another dynamic legal personality, brought notable addition to this subject, a book titled *Professional Conduct and Advocacy.*

The Vakils' Bar Association: On March 1,1889, 24 *vakils* gathered together under the aegis of P. Anandacharlu, a doyen of the profession, to consider forming of an association. The association was duly formed and registered in 1900 under Act XXI, 1860. Raja T. Rama Row was the first President of the Vakils Association. It was the Vakils' Association which was responsible for requesting the Chief Justice to permit them to wear gowns when they appeared in courts. Previous to that, only barristers wore gowns and wigs. In order to do away with the distinction in the appearance of persons seeking audience of the courts, the Vakils' Association insisted on the wearing of black coats and gowns, and they have become now an integral part of the dress code of the practising lawyer. The Vakils' Association was also responsible for building up a library which began to be a source of ready reference to the members of the Bar. In many other such matters, it was the Vakils' Association that took a leading role in trying to raise both the standards of the profession as well as the prestige which it enjoys today in the eyes of the legal world. The Madras Bar had every reason to be proud when they sent a representative, Alladi Krishnaswami Iyer, to work in the Constituent Assembly that framed a new Constitution for free India.

History of High Courts

The history of the Courts of Law in Madras fall into four periods, viz. (1) from 1600 to 1800, which saw the establishment of various courts under different Charters; (2) from 1801, when the Supreme Court of Madras was established and several courts merged into it, upto its abolition in 1868; (3) from 1862, when the High Court of Judicature at Madras was established by Letters Patent issued under the Indian High Courts Act, 1861, to the day of independence; and (4) the period post-independence. The history of the establishment of various courts under different Royal Charters during the period from 1600 to 1800 can be encapsulated as follows:

Charter of Queen Elizabeth I (31.12.1600): This is the earliest Royal Charter by which the East India Company was conferred with the authority to punish offenders.

Charter of King James I (04.2.1622): This charter confirmed the authority conferred upon the East India Company under the earliest charter of 1600.

1640: Fort St. George was established on the Coromandel Coast by the East India Company with the permission granted by the local Naik. Immediately, a court known as 'Choultry Court' came into existence to try petty cases, both civil and criminal. The native 'Adigar' or Headman of the town, sitting at the Choultry or Town House presided over the Choultry Court. A native by name 'Kanappa' functioned as the Presiding officer of the Choultry Court from 1644 to 1648. But this court was reluctant to try complicated cases involving English subjects. Therefore, those cases were always remitted to England.

Charter of Charles II (3.4.1661): This Charter authorised the Agent or Governor in Council to decide both civil and criminal matters according to the Laws of England.

Charters of Charles II (27.3.1669 and 16.12.1674): These Charters were on the same lines as the Charter dated 3.4.1661.

March 1678: Governor Strynsham Master felt that the Choultry Court was inadequate to deal with the subjects and hence established the first Court of Judicature in Madras and the first Trial by Jury was held on 16.4.1678.

Charter of King Charles II (9.8.1683): Since qualifications had not been prescribed for persons who were appointed to preside over any courts till then, this charter provided for the appointment of a Judge-Advocate, who was a person learned in civil laws. But the cases were to be decided by the Court of Judicature comprising the Judge-Advocate and two Merchants, who were expected to decide cases according to equity and good conscience. Sir John Biggs was appointed the first Judge-Advocate and was sworn in as such on 28.7.1687.

Charter of King James II (1686): By this Charter and by the Charter issued by East India Company on 30.12.1687, a Mayor's Court was established in 1688 and it was empowered to try all cases, civil and criminal.

1690: A new Court of Judicature was created with the Governor acting as Judge-Advocate (pending regular appointment from England) and a native by name Allingal Pillai was appointed one of the judges of the Court of Judicature.

Charter of King George I (24.9.1726): Under this Charter, a Court of Record with a Mayor and nine Aldermen was constituted to try civil suits and also to grant Probate and Letters of Administration.

Act of 1793: By this Act, a Cutchery Court was established to try civil suits involving natives, but it was closed on 31.5.1798.

Letters Patent of King George III (20.2.1798): Under these Letters Patent, the Court of Recorder of Madraspatnam was established on 1.11.1798 and Sir Thomas Strange was appointed as the Recorder of this Court. Sir Thomas Strange was called to the Bar in 1785 and, after six years, he was made the Chief Justice of Nova Scotia at the age of 35. He was later recalled to England and knighted, and sent to Madras as Recorder.

Letters Patent of King George III (26.12.1800): A Supreme Court of Judicature at Madras was created by this Letters Patent on 4.9.1801 and the Recorder's Court was terminated. It was the Supreme Court of Madras that later became the High Court of Judicature at Madras.

Regulations 1802: By these regulations issued by the Governor-in-Council, the following Courts were established:-

1. Zilla Courts for trial of civil suits in the districts.
2. Provincial Courts of Appeal replacing the Zilla Courts. These courts were abolished in 1843.
3. Sudder Adalat. The Chief Court of Civil Judicature for the trial of Appeals from the Provincial Courts of Appeal.
4. Courts of Circuit for the trial of persons charged with crimes.

   These courts were abolished in 1843.
5. Foujdary Adalat Chief Criminal Court.

6.8.1861: The British Parliament passed the Indian High Courts Act, which conferred powers upon the British Crown to establish High Courts in Calcutta, Madras and Bombay by issuing Letters Patent. Under Section 8 of this Act, the Supreme Court of Madras and the Sudder and Foujdary Adalats were abolished, with the establishment of the High Court.

Letters Patent of Queen Victoria (26.6.1862): By the Letters Patent issued by Queen Victoria, the High Court of Judicature at Madras was established as a Court of Law and Equity, of Oyer and Terminer and General Gaol Delivery, of Ecclesiastical jurisdiction and of Admiralty.

15.08.1862: The High Court of Judicature at Madras was formally declared open. By sheer coincidence, or providence, it was on the very same day, the 15th of August 1947, that India attained Independence 85 years after the High Court came into existence.

1888: The construction of the High Court buildings

(in their present location) began. It was completed and inaugurated on 12.7.1892.

The Law Association: The inauguration of separate court house for the Small Causes and City Civil Court necessitated the forming of a separate branch and, after a meeting held under the Chairmanship of Diwan Bahadur P.M. Sivagnana Mudaliar on 15.10.1931, the Law Association was formed on 1.2.1932. It is to be noted that Vijayarangam was the President of the Law Association for nearly 25 years, a post he held unopposed.

Women Lawyers' Association: The first woman lawyer in the Madras High Court was Ananda Bai in the early 1920s but it took 40 more years for the number of women lawyers to grow in strength to form themselves into an Association in 1963. Its founder-President and Secretary were Lakshmi Panikar and Lakshmi Swaminathan, respectively.

20th Century developments

The Indian High Courts Act of 1911 made certain modifications in the administration and functioning of the High Courts established under the 1861 Act. The 1911 Act raised the number of maximum number of judges of High Court from 15 to 20. The Act also conferred the power to establish new High Courts within the Indian domain, whether or not such territory fell within the jurisdiction of the High Courts already established. It was also laid down under the Act that salaries of the judges of the High Courts were to be paid out of the Indian revenue. The Act made a significant modification in respect of the ordinary original civil jurisdiction of the High Courts at Calcutta, Madras and Bombay. The Act laid down that these three High Courts "may not exercise any Original Jurisdiction (means the hearing in the first instance of a matter over a particular pecuniary or monetary value) in any matter concerning revenue, or any act ordered or done in the collection thereof according to the usage and practice of the country or the law for time being in force."

A few provisions of the Regulating Act, 1773 and the Act of Settlement, 1781, were re-enacted by the Government of India Act of 1915. The Governor, Chief Commissioner, members of the Executive Council of the Governor-General or the Governor or Lieutenant-Governor, and Ministers were to be exempt from the original jurisdiction of the High Courts for anything counselled, ordered or done by any of them in his public capacity. None of these officials was to be liable for arrest or imprisonment in any suit or proceeding in any High Court on its original side, or was to be subject to the original criminal jurisdiction of a High Court in respect of any offence not being treason or felony. The exemption from liability to arrest and imprisonment was also to extend to the Chief Justices and other judges of the High Courts.

As regards the law to be applied by the High Courts, it was laid down that in matters of inheritance and succession to land, rents and goods, and in matters of dealing and contract between party and party, a Presidency High Court, in the exercise of its original jurisdiction in suits against the inhabitants of the Presidency town, was to apply the personal law or custom having the force of law when both parties were subject to the same personal laws or customs, and the law or custom of the defendant was to be applied when the parties were subject to different personal laws or customs.

In 1935, the British Parliament enacted the Government of India Act which sought to remodel the Constitution of the country on federal lines. The Act contained a number of provisions regulating the composition, constitution and working of the High Courts. While the Act provided generally that the jurisdiction of a High Court would continue to be the same as before its commencement, nevertheless, it effected certain notable changes in the constitution of the High Courts.

The Government of India Act, 1935 conferred a very dignified status on the High Courts. Their independence was adequately safeguarded. It ensured that they be in a position to discharge their judicial functions impartially and without fear or favour. Since appointment of High Court judges was in the hands of the Crown, power to confer jurisdiction on the High Courts was divided between the Centre and the Provinces, and administrative control over a High Court was vested in the provincial government concerned. It would be correct to say that the High Courts were neither fully federalised nor fully provincialised.

The Constitution of India

On December 9, 1946, the Constituent Assembly was set up to draft a Constitution for independent India. The members of the Constituent Assembly were elected by the members of the provincial assemblies. The members of each provincial assembly were to be divided into three groups – General, Muslim and Sikh. Each group was to elect its own representatives to the Constituent Assembly by the method of proportional representation with a single transferable vote. The number of representatives allotted to each province and community

was to be proportional to its population, in the ratio of one to a million. The total number of representatives from the provinces was to be 292. Four members were to be added to represent the Chief Commissioners' Provinces and upto 93 members were to be added to represent the Indian states. When, later, a decision was taken to bifurcate India into India and Pakistan, the members representing Pakistan went out of the Constituent Assembly and formed a separate Constituent Assembly for Pakistan.

The new Constitution of India was adopted on November 26, 1949, and it became fully operational with effect from January 26, 1950, and the first Parliament and the first state legislatures constituted under the Constitution started functioning in 1952.

Part VI of the Constitution of India made provision for the setting up of state legislatures and defined their powers. It also provided for the establishment of High Courts and subordinate courts in the States. The High Courts were given the power of superintendence over the courts subordinate to it. The High Courts were also given original, appellate and advisory jurisdictions. Appeals from the High Court lay to the Supreme Court.

Legal education

As early as 1816, the Government took measures to institute some form of legal education at the College of Fort St. George. In 1826, the medium of instruction was changed to English from Persian. Before that, to become a *vakil,* a knowledge of Persian was necessary. At that time, no principles of law were taught; what was taught was only rules and regulations. In 1855, the Presidency College introduced lectures on law. In 1857 study of law was declared a permanent part of universities. However, it was only in 1885 that permanent law classes were established.

Between 1917-1958, a number of commissions and committees were appointed to examine the question of legal education. A number of measures were suggested by these committees to improve legal education. The Bombay Legal Education Committee, stressing the need for reorientation of legal education and academic and vocational training, reported that "there is no real antimony between the professional and the cultural aspects of Law. A lawyer will be a better lawyer and the Judge a better Judge, if he has studied the science of law. A thorough grounding in the principles of law is absolutely necessary in the make up of a real lawyer."

In 1966, the requirement of compulsory apprenticeship and the bar examination on procedural subjects for every new entrant to the bar was removed.

The Advocates Act of 1961 laid down the functions of the Bar Council. Before 1962, the duration of law courses was two years and after 1962 it was made of three-year duration. A scheme for a 5-year course was prepared by the expert Legal Education Committee constituted under Section 10 (b) of the Advocates Act, 1961.

In 1988, the Curriculum Development Centre published a report ('Trends in Legal Education after Independence') which divided the development in legal education into three phases. In the first phase (roughly 1950-1965), the principal theme was how best to transform legal education from its colonial heritage and Indianise it. In the second phase (roughly 1965-1975), the emphasis was on a sound reorganisation of curricula and pedagogy towards professional legal education. In the third phase (1976-1988) the focus shifted to 'modernisation' of law curricula so as to make this increasingly relevant to the problems of a society and state in the deep throes of transition.

In the mid-1990s, the Bar Council of India identified papers essential for making a professional lawyer. It then made it known to all schools that these were the required courses that were compulsory for all aspiring advocates. However, the details of the courses were left to be evolved by the University academic bodies. The Madras Law College, established in 1891, was subsequently renamed after Bhimrao Ramji Ambedkar, the famous Indian freedom fighter.

Family Courts: The Family Courts Act was enacted in 1984 and it came into force in the State of Tamil Nadu on 2.10.1986. Chennai has three family courts.

A State Government, in consultation with the relevant High Court, may establish a Family Court in any area comprising a city or a town having a population of over one million. Lawyers are not to appear before this court, but the court may seek the assistance of a legal expert as *amicus curiae* (a friend of the court) if it considers it necessary in the interests of justice.

Judicial Academy: The Law Commission of India in its 54th Report (1973) recommended the setting up of a National Academy for Judicial Training. The 117th Report of the Law Commission of India (1986) also devoted one full chapter titled 'Training of Judicial Officers' to justify the need for judicial training. The Supreme Court in the All India Judges' Association case (AIR 1992 SC 165), while acknowledging the need for an integrated, professionally organised, independent

judicial system in the country, had asked the Government to take steps to establish an All India Judicial Service and to organise Judicial Training Academies at the State and Central levels. The National Judicial Pay Commission report (November 1999) called for judicial education through appropriate means. Keeping in mind the recommendations of the Law Commission and the judicial pronouncements of the Apex Court, the Tamil Nadu State Judicial Academy was established in Chennai.

Bar Council of India: A major development in the area of Indian legal education took place under the Advocates Act, 1961. Under the Act, the Bar Council enjoys very significant functions in relation to legal education. Under Section 7(h) of the Advocates Act, one of the important functions of the Bar Council of India is "to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils." The Bar Council was also empowered to make rules, prescribing, among other things, "the standards of legal education to be observed by Universities in India and the inspection of Universities for that purpose." The Advocates Act thus conferred regulatory powers on the Bar Council of India vis-à-vis legal education. The Act also provides that a citizen of India will be entitled to be admitted as an Advocate if he has obtained a degree in law from a University in India, which is recognised for the purposes of this Act by the Bar Council. Thus, the Bar Council can lay down the content, syllabi, duration of the law degree course as a pre-condition of the degree's recognition by it.

Tamil Nadu Dr. Ambedkar Law University: Madras Law College, which was established in 1981, was subsequently renamed 'Dr. Ambedkar Government Law College', coinciding with Dr. Ambedkar's Birth Centenary in 1990. The Dr. Ambedkar Law College was affiliated to the University of Madras. Further to the promulgation of the Tamil Nadu Dr. Ambedkar Law University Act of 1996 which established the Dr. Ambedkar Law University, Dr. Ambedkar Law College was brought under this new University.

The Government also established a Department of Legal Studies in 1953 with the objective of improving the standard of legal education in the State of Tamil Nadu.

Conclusion

The law and judicial systems in Madras in its primitive days were influenced by religious and social practices. The system of professional lawyers appearing for the litigants appears to have been unknown. During British rule, the law administered was the English law as extended to India and the British established their own set of courts and judges. Accordingly, the law and judicial system in Madras were greatly influenced by the development of English law and various reforms brought in by the British in India. A substantial portion of the resultant law and legal institutions was based on British law, the British legal system and the English language. However, in matters of personal law, the British applied the Hindu Law or the Muslim Law, depending on the religion of the subject. Even today, different personal laws govern Hindus and Muslims. A substantial portion of Hindu Law has been codified by the Indian Parliament after Independence. Muslim Law is as yet uncodified. Courts apply Muslim Law based on authoritative commentaries and on precedents. It is also clearly evident that wherever there was a shortcoming, English legal principles were applied. Leading personalities, lawyers and judges from Madras played a prominent role in the evolution of Indian law and the Indian judicial system.

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Bibliography

Muthiah. S.: *Madras Rediscovered – 2004* (A Historical Guide to Looking Around, Supplemented with Tales of *Once Upon a City*).

Gopalaratnam. V.C. (Advocate): *A Century Completed – (1862-1962)*, (A History of the Madras High court) (Volume I & II).

Justice. Rama Jois. M.: *Legal and Constitutional History of India,* (Ancient legal, judicial and constitutional system), Universal Law Publishing Company Pvt Ltd., First Edition.

Jain, M.P.: *Outline of Indian Legal History Wadhwa Classics*, Wadhwa and Company, Nagpur, Fifth Edition.

Love, Henry Davison: *Vestiges of Old Madras*, Indian Records Series (1640-1800). (Volumes I, II & III), London, Government of India, 1913.

Wheeler, J. Talboys Wheeler: *Madras in the Olden Times* (Being a history of the Presidency), Higginbothams, Madras, 1882.

Talboys J. Wheeler: *Early Records of British India* (A history of the British Settlement in India), Asia Educational Service.

Kulshreshtha, V.D.: *Landmarks in Indian Legal and Constitutional History*, Eastern Book Company, Eighth Edition.

Ramakrishnan Hauser, V.: *Guide to Indian Laws*, Global Law School Program, New York University School of Law available at http://www.nyulawglobal.org/globalex/India.htm

Annexure 1

The Honourable Chief Justices of Madras High Court

1.	Sir Thomas Andrew Lumisden Strange	1801-1816
2.	Sir John Henry Newbolt	1816-1820
3.	Sir Edmond Stanley	1820-1825
4.	Sir Ralph Palmer	1825-1835
5.	Sir Robert Buckley Comyn	1835-1842
6.	Sir Edward John Gambier	1842-1850
7.	Sir Christopher Rawlinson	1850-1859
8.	Sir Henry Davison	1859-1860
9.	Sir Colley Harman Scotland	1860-1871
10.	Sir Walter Morgan	1871-1879
11.	Sir Charles Arthur Turner	1879-1885
12.	Sir Arthur John Hammond Collins, Q.C.	1885-1899
13.	Sir Charles Arnold White	1899-1914
14.	Sir John Edward Power Wallis, P.C.	1914-1921
15.	Sir Walter George Salis Schwabe, K.C.	1921-1924
16.	Sir Murray Coutts-Tratter	1924-1929
17.	Sir Horace Owen Compton Beasley	1929-1937
18.	Sir Alfred Henry Lionel Leach	1937-1947
19.	Sir Fredrick William Gentle	1947-1948

20.	Sir Pakala Venkata Rajamannar	1948-1961
21.	Sir Subramanya Ramachandra Iyer	10-05-1961
22.	Sir Palagani Chandra Reddy	23-11-1964
23.	Madavayya Anantanarayanan	01-07-1966
24.	Kuppuswami Naidu Veeraswami	01-05-1969
25.	Palapatti Sadaya Goundar Kailasam	08-04-1976
26.	Padmanabhapillay Govindan Nair	03-01-1977
27.	Tayi Ramaprasada Rao	29-05-1978
28.	Muhammad Kassim Muhammad Ismail	06-11-1979
29.	Krishna Ballabh Narayan Singh	12-03-1982
30.	Madhukar Narhar Chandurkar	02-04-1984
31.	Shanmughasundara Mohan	19-10-1989
32.	Adarsh Sein Anand	01-11-1989
33.	Kanta Kumari Bhatnagar	15-06-1992
34.	Kudarikoti Annadanayya Swamy	01-07-1993
35.	Manmohan Singh Liberhan	07-07-1997
36.	Ashok Chhotelal Agarwal	24-05-1999
37.	Konakuppakattil Gopinathan Balakrishnan	09-09-1999
38.	Nagendra Kumar Jain	13-09-2000
39.	B. Subhashan Reddy	12-09-2001
40.	Markandey Katju	28-11-2004
41.	Ajit Prakash Shah	12-11-2005