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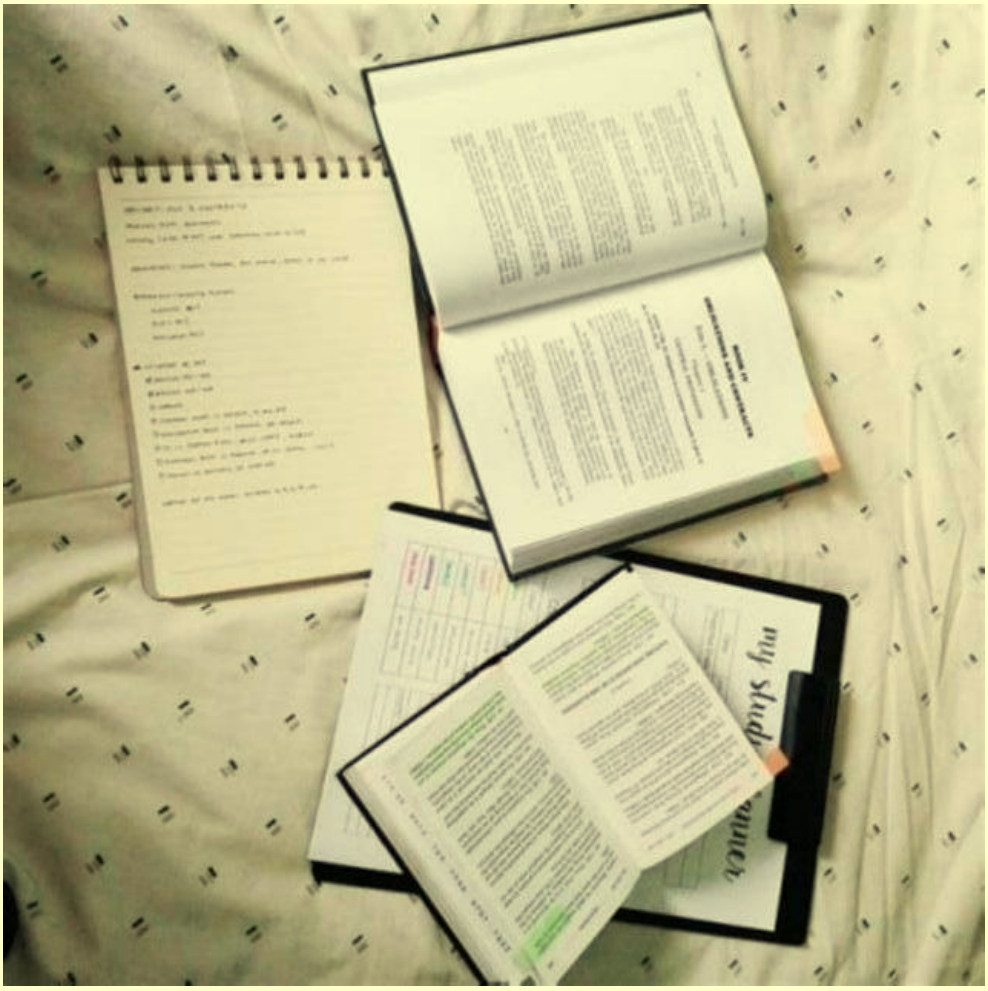
INDIAN LEGAL HISTORY

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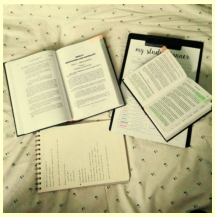
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INDIAN LEGAL HISTORY
[1600 to 1909]

Texual & Reference Books

1. M.P. Jain. : Outlines of Indian Legal History.
2. Keith. : Constitutional History of India.
3. M. Rama Jois : Legal & Constitutional History of India.

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Historical events

1. Establishment of the East India Company. The Charter of 1600.
2. Administration of Justice under the E.I. Company in Presidencies.
3. Mayors Courts.
   Courts of Requests and Small Causes Courts.
4. Adalat System :
   Historical Background upto 1772
   Judicial Reforms of Warren Hastings,
5. Supreme Council & Supreme Court.
   a. Regulating Act, Act of Settlement, Pitt's India Act.
   b. Leading cases : Patna case, Kamaluddin's case, Cossijurah's case Trial of Nandakumar, Saroop Chand's case.
   c. Supreme Courts at Calcutta, Bombay & Madras.
6. Judicial Reforms of Lord Cornwallis.
7. The Privy Council - Appeals from India - Achievements.
8. War of Independence 1867 - Winding up of E.I. Co. - Office of Secretary of State.
9. The Indian Law Commission - Codification.
10. Muslim Criminal Law.
11. Influence of English Law in India.
12. Govt. of India Act 1848
    Indian Councils Act 1861 & 1892
13. Judicial System in India during Ancient & Medieval Period.

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QUESTION BANK

1. How was the East India Company founded?
   Explain its Composition, powers and jurisdiction with reference to the Royal Charter of 1600 & King's Commission of 1601.
2. Trace the Origin and development of the Mayors Courts.
3. Summarise the Judicial Plans of 1772 & 1774.
4. (1) Discuss the significance of and the changes introduced by the Regulating Act 1773. (2) Account for the failure of the Supreme Court at Calcutta.
5. a) Write an essay on Supreme Council Vs. Supreme Court,
   b) State the facts, the decision and the scope of
      i) Kamaluddin's Case
      ii) The Patna Case
      iii) Cossijurah's Case
      iv) Trial of Nandakumar.
      v) Saroop Chand's Case.
6. Trace the origin of the Adalat System. Refer to the Reforms introduced by Lord Hastings (1814).
7. Write a note on the reforms introduced by Lord Impey.
8. Bring out the Civil & Criminal Law reforms effected by Lord Cornwallis.
9. 'The year 1861 is a landmark in the history of the judicial Indsitution in India' - Discuss.
10. Write an essay on 'Muslim Criminal Justice in India.'
11. Explain in detail the Composition, powers & jurisdiction of the Privy Council.
12. What is the Law Commission of India? Assess its contribution from the first to the fifth commissions.
13. Write Short Notes on :
    i) The Choultry Courts.
    ii) The Cutchery Courts,
    iii) The Recorder's Courts,
    iv) Court of Requests.

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CHAPTER 1

EAST INDIA COMPANY-FORMATION

Ch, 1-1 Royal Charter of 1600: East India Company:

The Indian Legal History deals with the evolution & development of law and legal institutions in India. The British period started from 1600 and the issue of the Royal Charter may be considered as a landmark event with far reaching consequences.

On 31.12.1600, Queen Elizabeth, granted a charter with the title 'The Governor and Company of Merchants of London trading into East Indies' containing the Company's constitution, powers and privileges. The life span was 15 years and this period could be extended if the trading was found profitable to England.

This Company-(The East India Company)-had exclusive trading right and no other British subject was allowed to trade except under a license issued by the Company.

Persons trading without license, were liable for punishment and seizure and forfeiture of goods by the Company,

The affairs of the Company were modeled on democratic lines. The shareholders formed the General Court (General Body) and this elected 24 Directors (Board of Directors) with the Governor as the Head.

This 'General Court' had . defined powers (to make laws, to levy fines & to impose punishments. No harsh punishment or death penalty could be given. This power to make law is of historic importance as it is the 'germ out of which the Anglo-Indian codes were ultimately developed' in India.

* *

Ch, 1-2 Kings **Commission** : 1601

The Company found that is legislative power was inadequate in practice, to maintain discipline among its servants. It could not adequately punish gross offences committed by the servants, for it could only give imprisonment and not harsh sentences. This proved to be quite insufficient to prevent lawlessness and disorderliness among the servants while on the High Seas. To meet the situation the Company invoked the Crown's Prerogative and used to secure from it, a commission to the commander-in-chief of each voyage separately. It empowered him to inflict punishment for capital' offence. Such a commission was issued in 1601. Under one such

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commission, a trial was held on 28.2.1616 on board a ship. Gregory Lelllington had killed an English-man Henry Baston, near Surat. Gregory was convicted on his confession and was condemned to death. James I, stopped the separate Commission, but conferred general powers, on the company itself to issue such commissions. In 1633, this was extended in respect of land, to issue commissions and also to inflict punishment for violations. Jury trial was recognised.

* * *

CHAPTER 2

MAYOR'S COURTS

Ch. 2. Mayor's Courts. (Charter of 1726.)

The origin of the Mayors Courts is embedded deep in the Legal History of India. The Justice that was administered by the East India Company at Madras, Bombay & Calcutta was uncertain & lacked uniformity. The English Government felt the need for instituting Royal Courts on a uniform basis in all presidency towns, reserving ultimate power in the Crown-in-council. This was accomplished with the Company's Charter of 1726, the three towns were to have Corporations.

The Mayor and Aldermen constituted the 'Mayor's Court' with right of appeal to the 'Governor and his Council' and thereafter to 'the King in Council'.

The Mayor's Court had civil and probate (will) Jurisdiction and was not subject to the arbitrary will of the executive. Madras had a corporation and Mayor's Court from 1688 but its criminal jurisdiction was taken away.

The Charter of 1726 undermined the powers of the Mayor's Courts and made the local Governor in council all powerful. Originally Mayor's Court was a court of record with criminal and civil jurisdiction. It was to deal with offences which imposed fine, imprisonment or corporeal punishment.

A right of appeal to the Court of Admiralty was guaranteed, in Civil and Criminal cases. The Mayor and two Alderman formed the quorum of the Mayor's court sitting once a fortnight. The jury system appears to have been followed in Mayor's court in criminal proceedings. But, under the Charter of 1726, the Mayor and Alderman of each corporation constituted a court. The Court met not more than thrice a week. The process of the court was given testamentary jurisdiction. Probate and letters of

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administration could be granted by it. It was bound by the laws and procedures of English Courts. The Corporation and the Mayor's court, were completely independent of the Executive. Hence, the Charter of 1726 introduced independence of the judiciary to a considerable extent.

The Crown's Charter of 1754 introduced certain changes. The Mayor was selected by the Governor in Council. Hence, he was a nominee of the Govt. The aldermen were also chosen by Governor in criminal court.

Requests Courts were introduced for cheaper and speedy trials in minor cases up to Rs. 15/-. This court was subservient to the Council. These charters introduced English procedural laws in India.

The Mayor's Court entertained suits between natives if both the parties agreed. The object was not to interfere with the local people. Hence, the court was mainly available to the Europeans. The result was there were no courts to the Indian people.

The structure of the courts was as follows:

Civil cases:-
- Court of Requests.
- Mayor's Courts
- Privy Council.

Criminal Cases:-
- Justice of the Peace.
- Court of Quarter Session.

Defects of the Judicial system of 1753

i) As the Governor in Council was appointing the judges, the judges were subservient and could not render justice when the E.I. Company was' a party.

ii) Judges were not aware of the civil and criminal law. iii)

The Mayor & others had private trade activities.

iv) Jurisdiction was confined to Presidency towns only. Hence, in Moffusils Englishmen could do injustice & escape.

Committee Report 1772.

In 1772, The House of Commons in England, appointed a Committee which reported against the efficiency of Mayor's Court. The Regulating

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Act of 1774 passed by British Parliament replaced Mayor's Court with the Supreme Court of Judicature at Calcutta. This consisted of professional lawyers appointed as judges, by the Crown, Hence, the court became free from the subordination of the Company. Later the Mayor Courts at Madras and Bombay were also replaced by Supreme Courts.

CHAPTER 3

SUPREME COURT & SUPREME COUNCIL

Ch, 3 Regulating Act 1773 - Supreme Court at Calcutta.

Lord Clive had decisive success in the battle of Plessey 1757.

The Fast India Company became the Supreme Authority in Bengal. It kept the Nawab on the throne of Bengal but he exercised limited powers. The Nawab failed to give a good administration. The Famine of 1770, financial shortage etc., added to the trouble. The British Government in order to remove the evil introduced the Regulating Act 1773.

i) The Regulating Act was passed for the better management of the affairs of the Company in India as well as at Home. The aim was to prevent particularly various abuses of the Government and of the administration.

ii) The Act provided for the appointment of a Governor-General and four councillors, for the Civil and Military Government of the Presidecy of Calcutta.

iii) The Act empowered the Crown in England to establish, by Charter of letter patent a Supreme Court of Judicature at Calcutta consisting of Chief Justice and 3 other judges. Judges were to be appointed by the Crown. Only barristers with at least 5 years standing were appointed as Judges.

iv) The Supreme Court was to have power to exercise all civil, criminal, admiralty and ecclesiastical jurisdiction. The jurisdiction of the court was to extend to all British subjects residing in Bengal and Orissa. The Court was not competent to hear and determine any indictment against the Governor-General and the councillors except for treason and felony.

v) The Supreme Court was to be court of equity in the English legal sense of the word. It was given full power to administer justice in a

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summary manner, according to the rules & proceedings of the High Court of Chancery in Great Britain,

vi) It was made an effective instrument by giving to its judges, the status of the judges of the King's Bench of England, who could issue prerogative writs. This was a distinct improvement upon the 'former system. The Court was invested with common law, equity, admiralty and ecclesiastical jurisdictions which were exercised in England by various courts. The Supreme Court was established at Calcutta under the Charter 1774 issued by George III. Lord Impey was appointed as the Chief Justice. Three other Judges were also appointed. It was a Court of record.

Ch, 3-2 The Supreme Court Vs. Supreme Council:

Supreme Court: Some defects.

i) Vagueness and serious omissions of the Law to be applied created serious consequences. What law was the Supreme Court to administer? The Regulating Act 1773 was silent. Apparently it was the English Law which was insular, technical, formless, tempered in its application to English circumstances only. To whom was that law to be applied? To British subject and to persons in the employment of the Company? But the point was by no means clear. All these gave rise to conflicts between the Supreme Court and the Supreme Council (Govt.)

ii) It was also not made clear, whether the company in its Diwani (Revenue) capacity was subject to the jurisdiction of the Supreme Court. The Company considered itself immune from the jurisdiction but the Supreme Court held that it had jurisdiction. This led to complicated cases.

iii) It was not clear whether the Zamindars who collected revenues were the servants of the company. The Supreme Council (i.e., Govt.) had held that they were immune from Supreme Court's jurisdiction. This also led to serious litigation.

iv) Supreme Court Vs. Supreme Council:

Leading cases:
1) Kamaluddin's case.
2) The Patna Case.
3) Cossijurah's Case (1779).
4) Trial of Nandakumar.
5) Saroop Chand's Case.

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v) The Supreme Court followed its own procedure in administering criminal law. Many offences were punishable with death. This was oppressive, as there was no promulgation of the law.

vi) There was much disharmony between the Governor-General in Council and the Supreme Court. The Supreme Court had no jurisdiction to hear indictment of the Governor General.

Ch. 3-3 **Leading Cases**

I) Kaml-uddin 's Case (1775):

K a farmer was committed to prison by the Revenue Authority at Calcutta for non-payment of revenue arrears. But, he was released by the Supreme Court, The Govt., (Supreme Council) criticised this and declared that the court had no powers to deal with revenue cases. Hence, the Govt,, was asserting its power. In a letter to the Court of Directors, Chief Justice, Impey stated that' when arrests were • made for non payment of revenues, bail "was usually granted and so the Supreme Court had a right to give the 'directives to release on bail. The Court was protecting the subject from oppression, It was compelling the officers to follow- the established customs and usages in revenue collections.

2 The Patna Case(1777)

The importance of this is. that it showed that the Supreme Court had jurisdiction to try judicial officers of the company for the acts done in the course of their appointment.

Facts: One S.B.Khan came from Kabul, joined the army and earned a huge wealth. He settled at Patna with his wife Nadirah (N). He had no issues. His nephew B was brought from Kabul. Khan had a desire to adopt B. But, before taking him in adoption he died. Tug arose between N and B.

B filed a petition in the Provincial Council at Patna claiming the property as adopted son. The court appointed Law Officers-Kazi and Mufti- to make inventory. This was an exparte proceeding as N had no notice, The law officers went to the house of N, ill-treated N and made an inventory in an irregular manner. The will and gift executed by K were held as forgery. They recommended for the division of property into four parts. One part would go to N. On the basis of this, the provincial Court at

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Patna ordered for divsion, but the Supreme Court at Calcutta issued a writ of capias. All the defendants, the Law Officers and B were arrested and detained in custody.

The court held: The Law,Officers had acted in an irregular manner. Their report was false, vexatious and unjustife'd. Held that the wil! and the gift-deed were valid and awarded 3 lakhs as damages. The Officers were punished as they were found to be corrupt,

The decision was neutralised by Act of Settlement 1781. (see Act of Settlement).

iii) **Cossijurah's** case.

This concerned the claim .of the Supreme Court to exercise its jurisdiction over the .entire native population, if a. writ served on them. In particular this dealt with its jurisdiction over the Zamindars of Bengal, .Bihar and Orissa.

Facts*;* Kasinath Babu (K), loaned a large of money to Raja Cossijurah (C). He failed to recover through the Board of Revenue. He filed a suit against C in the Supreme Court. He submitted that C was a Zamindar, employed in the Revenue Collections so the Court had jurisdiction. The court issued a writ of capias to arrest C or to provide a bail for 3 lakhs. C avoided by hiding. Hence, the writ was returned unserved.

The collector informed Governor in council that as C was hiding ,there was loss of revenue-collection. This was referred to the Advocate-General who opined that the Supreme Court had- no jurisdiction over C. On the basis of this, the Governor-General 'in council notified that Zamindars were not subject to jurisdiction of the Supreme Court. Hence, C took no further process of the Supreme Court.

Thereupon the Supreme Court issued a writ to seize the property of C, The sheriff went with a small armed force to execute it. To meet this, Warren Hastings the Governor General sent an army to arrest the Sheriffs and others. They were duly arrested and brought to Calcutta.

K filed a case for trespass against Warren Hastings the Governor General. First the Governor General appeared before the Court but later defiled, the process of the court.

The British Government intervened and passed the Act of Settlement 1781. This provided that:

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i) Governor General and Council were immune from the jurisdiction of Supreme Court,

ii): Supreme Court was not to have jurisdiction over revenue matters,

iii) Natives were immune,

* * *

Mi) Trial of Nandakumar : -

This is a case concerning the conflict and jurisdiction of the Supreme Council (Government) and the Supreme Court,

Maharaja• Nandakumar, Governor of Hubli, a Hindu, brought an action on counts of bribery and corruption against Warren Hastings, the Governor General. The Supreme Council found him guilty. Thus the Raja won the Case.

As a revenge, Warren Hastings, with the co-operation of the chief Justice Impey, got a criminal case lodged through a person named Mohan Prasad. An acknowledgment of debt in the name of a banker by name Balkidas, was alleged to have been forged by Nandakumar, & Rs, 25,000/- appropriated by him 6 years ago. Nanda Kumar arrested on charges of forgery. The majority of the Supreme Council pleaded for the-release of N, but the Supreme Court refused. It was a jury trial consisting of 12 Europeans, A Verdict of guilty was given and N was sentenced to death, under the British Parliament Act of 1728. He was duly executed.

Lord Macaulay, Mill and others strongly criticised the decision.

i) N was not a resident- of Calcutta and hence the Supreme Court had no jurisdiction.

ii) The Supreme Court Bench contained two sitting Magistrates. This affected Justice,

iii) The Supreme Court was established in 1774. But, the alleged act of forgery was in 1770. Hence there was expost facto law.

iv) Chief Justice Impey, a 'great friend of Warren Hastings, presided over the Court, Thus there was expost facto law,

v) Forgery was not a capital crime in Hindu Law and the English law of 1728 imposing death penalty for forgery **had not been** promulgated in Calcutta,

vi) . N had moved an application for leave to the King-in-Council but this was unjustly turned down.

vii) His case was not referred to mercy.

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Lord Macaulay observed that Impey acted unjustly in refusing to respite Nanda Kumar. No rational man can doubt that he took this course in order to gratify the Governor Genera!'.

* *

v) Saroop Chand's Case :

S was a Surety for payment of revenue, from a Paragana. S disputed the liability. S was due some amounts as treasurer, of a division.

S claimed that he had paid Rs, 10,000/- to a member of the Council, but this was denied by that member.

S was committed to the prison for non-payment. A petition for Habeas Corpus was filed before the Supreme Court. Held, the imprisonment was arbitrary. Regarding the liability as a treasurer, it was held that this was a contract, and the Council had acted like a judge in its own cause & had decided its own demands of the revenue. S was released.

CHAPTER 4

ADALAT SYSTEM Ch.

4-1. Adalat System :

The East India Company acquired the provinces of Bengal and Orissa in 1765. The adalat system was introduced in 1772. Lord Clive's decisive victory at the battle of Plessey, enabled the Company to exercise supreme authority.

Under the Mogul rule each unit was a 'SUBA[5] having two officials (1) Nawab, a military head also in charge of administration of criminal Justice and (2) Diwan, who was to collect the revenue.

The transfer of the Diwani, to the company meant the civil and revenue powers. The maintenance of army was also taken over by the company. Indian officers were appointed for collection of Diwani, but this was failure. Hence the company took upon itself the Diwani Functions.

Warren Hastings gave a new shape to the entire system.

The Moghal Empire had a good judicial structure. The different Courts were Kazi Courts. Court of Nawab (Criminal Court), Court of

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Diwan (Civil and Revenue) Dargah Adalat-al-alia (property claim etc.,). Dargah, when Moghul Empire collapsed, came to an end. Hence, courts of Kazi were replaced by Zamindar's Courts. Exploitation was on the increase, work also became unsatisfactory. Under these deplorable conditions Warren Hastings introduced the reforms through the Judicial plans 1772 and 1774.

Ch. 4-2. A Summary of the Judicial plans of 1772, 1774.

(a) The Regulating Act of 1772 formed the first British Code. The Plan aimed at correcting the defects without destroying the local customs.

Bengal, Bihar and Orissa were divided into Districts. To each District was appointed a Collector responsible for collection of revenues. Further in each district the following courts were established.

i) Moffusil Diwani Adalat (Civil **Court) to decide Civil Cases:**

The Collector was the judge. The court dealt with inheritance, property disputes etc.,

ii) Moffusil Nizamat Adaiat :

(Criminal Court) to decide criminal cases. Even corporeal punishment could be imposed. Above the District Court two appellate Courts were established at Calcutta a) Sadar Diwani Adalat (Chief, Civil Court); it heard appeals from Districts, b) Sadar Fourdart Adalat (Chief Criminal Court); This exercised criminal jurisdiction of revisions over district courts.

(b) The judicial plan of 1772 had vested excessive powers in the collector. There was also a decrease in the revenue collections. Hence, the court of Directors, directed the Council of Calcutta to withdraw the collectors from the districts. This needed a fresh plan. Warren Hastings prepared a plan in 1774,known as the 'System of Principal Councils'.

According to this the entire Diwani (revenue) area was divided into six divisions. Each had a Council charged with the duty to collect revenues. Each division had a number of Districts headed by Diwan (in the place of collector). He acted as judge also, in Mofussil Diwani adalat. The new court had also the powers to collect revenue in the division and to decide original suits. It may be noted that the Judicial plan of 1780, separated the revenue function.

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Ch. 4-3 Reforms introduced by Impey.

The Governor General and Council had no time to sit at the Diwani Adalat Courts to hear appeals and supervise the work of the Courts. Without the support and control of some powerful authority it was impossible for them even to subsist. There were only six Diwani Adalats. The Zamindars as public officers were acting as honorary judges. There was a danger of their abusing the authority to their own advantage. Thus there was; an urgent need to reform the judicial system under the control and supervision of a powerful authority. The Governer General and Cou-ncii admitted their incapacity to exercise the powers and expressly stipulated that Chief Justice Sir Elijah Impey should he the soie judge of Sardar Diwani Adalat. They thought that this would lessen the tension between the council and the court. The Governor General and the councillors were non-lawyers. Impey being an experienced and trained lawyer, was expected to discharge judicial functions in a far better way.

Elijah Impey was appointed as the sole judge of the Sardar Dfwanr Adalat.

In fulfilment of his new duties, Impey had prepared 133 articles of regulations for the guidance of the Civil Court. They were afterwards incorporated in a revised code consisting oi 95 articles. This code was passed in July 1782. This was the first Civil Procedure Code of India. Impey in his plan of 1781 hit at the evils of the existing system. There was a great scarcity of Diwani Adalats. So the number was increased from 6 to 18. Appeals from the decision of a Diwani Adalat if its value exceeded Rs. 1007- were to be taken to Sadar Diwani Adalat. Impey retained the separation of executive from judiciary.

In order to check the irregular practice in the administration of Justice Impey provided that no Judge of the Moffusil Diwani Adalat should leave the question of fact to the determination of native law officers or other persons. They must be settled by the Judge himself.

Impey filled up the gap by providing that in all cases for which no specific directions were given, the Sadar Diwani Adalat and the Moffusil Diwani Adalat were to act according to Justice, equity and good conscience. This remarkable provision helped to give decision in all civil cases of Hindus and Mohammadans.

Another important reform of Impey was that the Sadar Diwani Adalat was put on a sounder basis. He brought the Union of powers of the board of supervision with those of the court of Appeal.

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His code was an extrordinary one. He had given new direction to the judges of Diwani Adalat and litigants. It was the first attempt of its kind in India to make C.P.C. certain to some extent.

* * *

CHAPTER 5

REFORMS TO ADALAT SYSTEM **Ch.**

5-1 Reforms to Adalat System by Lord Hastings 1814.

Lord Hastings took up the charge of Bengal Government in 1813. He was shrewd, patient, and, independent. He adopted a more liberal and sympathetic policy towards Indians and introduced certain important reforms in the administration of Justice.

During the Regime of Hastings effective steps were taken to modify the basis of Cornwallis system. However, the position was that the judges of Diwani Adalats were overburdened with the work resulting in arrears of undecided civil & criminal cases, necessitating some change to expedite the course of justice. Hasting did not favour the idea of increasing the number of courts presided over by Europeans on economic grounds. He approved the suggestions of employing more Indians in the administration of justice and increasing their judical powers. Administration of criminal justice suffered to a great extent due to exclusive employment of Europeans as judges to hold criminal trials. They consumed a lot of time in reaching a decision because of their ignorance of Indian people, their habits and traditions, law and usage.

The following were the reforms introduced in Civil judicature.

1. Courts of Munsiffs were increased in number and the pecuniary jurisdiction was raised to Rs. 150. Rules of procedure were laid down.

2. The pecuniary jurisdiction of Sadar Adalats was increased from Rs. 100 to Rs.150 in original suits referred to them by Zilla and City Judges. An appeal was allowed to the City Judge whose decision was final.

3. The courts could not entertain any suit when a British subject was a party.

4. In 1821 the Sadar Ameens were empowered to take suits upto Rs. 500/-,

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5. In 1841 the Registrar was authorised to decide original suits referred to them by Zilla and City Judge upto the value of Rs. 5,OGO/-. The number of judges of each provincial court was increased from 3 to 4. All their decisions were rendered appealable to the Sadar Diwani Adalat.

6. In 1819 the Provisional Courts and the Sadar Diwani Adalat were made competent to admit a second appeal.

7. Criminal Jurisdiction:

Native Law Officers and Sadar Ammens were given criminal jurisdiction in 1821. Magisterial powers were given to collectors of revenue in 1824 to ensure efficent realisation of revenue. The jurisdiction of the Magistrate was enlarged.

Ch, 5-2 **The Civil and Criminal** reforms **effected** by **Lord Cornwaliis in his** Scheme.

Lord Cornwaliis succeeded Lory Wellesley as Governor General in July 1805. This time he came to India never to go back; he died in the following October. Cornwaliis had read well Roman Law.

i) He recognised the need for juris-consults on matter governing tne natives in personal laws and his council appointed Pandits and Kazis to assist the courts. Sir William Jones adorned the Supreme Court in 1873. It was his sincere interest in India that enabled him to contribute to the judical system.

ii) In the constitution of Sadar Adalats, Lord Cornwaliis introduced a significant reform to the effect that no member of the Supreme Council was to be the Chief Justice. This Provision was made with a view to carry out general principles of seoaration and to enable the members of the Council to devote more time to other government duties.

iii) He abolished the levy of court fee on litigants as he felt that it would be unjust to levy a tax on justice.

iv) Further he introduced a regularised system of appeals. The right to appeal was recognised as a valuable & vested right. No system of justice can be safe and complete without the safe-guards of being tested by a higher court.

v) He recognised the fact that every state which maintained a judiciary required a competent bar. As such, provisions fixing the qualification for

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lawyers, method of their enrolment and regulation for recognising the legal profession and fixing standards of Professional conduct were made by Cornwallis. Proper legal education was given under his directions.

CHAPTER 6

INDIAN HIGH COURTS ACT 1861 Ch. 6.

The Achievements of the Indian High Courts Act 1861.

The year 1861 is a landmark in the history of the judicial institution of India. The Indian High Courts Act 1861 was passed by the British Parliament. The Act empowered her Majesty to create and establish, by letter patent, High Court of judicatures at Calcutta, Madras and Bombay. The judges were to hold office during Her Majesty's pleasure. On the establishment of High Courts, the Supreme Court & Sadar Courts were abolished.

1. Each High Court was to consist of a Chief Justice and other judges riot exceeding 15. At least l/3rd of these judge were to be barristers, of not ley; then 5 years standing. Each of the High Courts exercised civil. Criminal admiralty, testamentary, matrimonial, original and appellate jurisdiction.

2. Each High Court was to exercise all such jurisdiction, power, and authorities as were vested in the Supreme and Sadar Adalat Courts.

3. Each High Court might provide, by framing rules, for the exercise of original and appellate jurisdiction vested in it.

4. Each High Court was to have superintendence over all Courts subject to its appellate jurisdiction and had power to call for returns. It was also to have power of frame and issue general rules for regulating the practice and Proceedings of such Courts.

The Calcutta High Court was established in 1862, and then at Madras and Bombay

Merits: The Indian High Courts Act, was a great measure marking the reforming spirit to improve the administration of justice and law in India.

2. It fused the two rival institutions namely the Supreme & Sadar Adalat Courts and created a single Supervisory High Court to exercise original and appellate jurisdiction over matters arising in the Presidency.

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3. This Act made it possible to unite the legal training of the English lawyers with the Company's Courts intimate knowledge of the custom, usage, habits and laws of the natives.

4. It was empowered to admit and enroll the advocates and vakils.

5. Appeals were allowed from the High Court to the Privy Council in England.

The High Court Act 1911 empowered the Governor-General to increase the strength upto 20. In 1935 under the Government of India Act a federal Court was established with jurisdiction to entertain appeals from these High Courts.

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CHAPTER 7

MUSLIM CRIMINAL LAW & JUSTICE

Ch. 7. **History :**

The Muslim system of Criminal law and justice, had gained ground sufficiently in India when the Britishers came to India. During the Moghul period it had become systematic, and, was applicable in the Muslim ruled areas in India.

Sources:

The Primary Source of Muslim Law was the Koran. Koran was the word of the Allah. Ijma & Qiyas were the others Sources.

Four Schools were Prominent; Hanafi, Maliki, Shafil & Honbali.

Punishment: The nature, purpose & mode of punishment under Muslim Law may be grouped into four:

i) Retaliation (Kisa) (Life for life, limb for limb),
ii) Blood money (Diya) (Unintentional killing), money compensation,
iii) Fixed penalties (Hadd) (Limits of Punishment prescribed),
iv) Discretionary (Tazzer) (Judge's discretion).

i) The Principle of retaliation was applied to cases of wilful homicide and of grave maiming and wounding. It gave to the injured person or his

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next of kin the *right of making like injury* to the culprit. Killing by way of retaliation was to be done with a sword or with any other similar weapon. From the beginning this was the general mode of execution in the territories under the control of the East India Company. Where the person murdered was a descendent of the Killer, there was no provision for retaliation.

ii) The second was blood money. Thjs was payble for other unintentional killings. The fund was to be exacted from the wrong-doer himself. In other cases, he and his family or associates were liable.

iii) 'Hadd' means limit. It was applied to the fixed penalties for certain offences. The quantity and quality of punishment were fixed for certain offences and could not be altered or modified. The judge had no discretion in the matter, e.g. (a) The punishment for illicit intercourse was stoning or whipping; (b) For falsely accusing a married woman of adultery or for winedrinking the punishment was whipping; (c) For theft it was cutting of the hands, (d) For various types of robbery, it was mutilation or death.

iv) Under the Principles of Tazzer, the kind and amount of punishments were entirely within the discretion of the judge. The punishment was public exposure, corporeal punishment, exile, boxing on the ear, imprisonment or humiliating treatment.

Basis of Muslim Criminal Law:

i) Muslim criminal law was based -on 'Hedaya and Fatawa Alamgiri. Sometimes these contained contrary Principles opposing Hanafi Schools. This resulted in uncertainty of Hanafi Law. In addition, this Law of crimes in some aspects suffered from other glaring defects like the absence of the Principles of natural justice.

ii) Crimes were divided into:

1) Crimes against God e.g. Adultery, Drunkenness etc.
2) Crimes against man e.g. Murder, Robbery etc.,

Muslim Law granted a privilege to the sons to Pardon the murderer of their parents or Kinsman. This encouraged many potential Kiliers, to commit homicide on all slight provocations. Thus human life became cheap. Among Hindus, Brahmin murderers escaped punishment because the relatives of the deceased person did not like to incur any sin by demanding retaliation by the offender Brahmin.

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The Whole Muslim law of homicide was very complicated, technical & obscure. Punishments like, mutilation and stoning to death were cruel and inhuman.

Procedure & Evidence: The law of criminal procedure and law of evidence were highly technical and primitive and irrational, e.g. evidence of one Muslim was equal to two of non-muslims. Evidence of two women was equal to that of one man.

The Judiciary :

1. The King was the highest judicial authority & formed the highest court, He decided cases in the Court Hall called Diwan-i-khas (Hall of private audience).
2. Quazi was appointed by the King. He decided cases falling under muslim personal law. He held his court proceedings in public.

3. Governors & Diwans at provincial level Faujdars at district levels, Amins at Pargana level & Kotwal at towns were deciding Secular Cases, i.e. other than muslim cases.

4. Diwani (revenue) Adalats decided civil, cases and Nizamat Adalats decided criminal cases.

Reforms :• '

The British Government employed the process of gradually reforming the Muslim law so as to make it a fit instrument for administration of Criminal Justice in India. The reforms were introduced in the form of regulations based generally upon English Principles.

Lord Cornwallis in 1790 divested the Kazi of any authority over nizamat.

In 1791, the government abolished punishment of multilation and substituted imprisonment and hard labour in its place. General principles on which criminal justice should be administered were introduced in Cornwallis Code 1793.

In 1833 Lord Macaulay moved the House of Commons to codify the whole of Criminal law in India. The first law commission was appointed with Lord Macaulay as its Chairman. This submitted its draft to the Govenor-General in 1837. This was circulated to the Judges and Law advisers. It was revised by another Commission. It was finally passed by

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the Legislative Council in 1860. This is the Indian Penal Code. In 1861, the Criminal Procedure Code was passed. These two together abrogated, interalia, the then prevailing Hindu & Muslim Criminal Laws and Procedures.

CHAPTER 8 THE PRIVY COUNCIL

Ch. 8. The Privy Council,

Under the concept of the sovereign as the fountain of Justice the subject could petition to the King in England, who dispensed Justice, with the assistance of a Council. This was called the King~In-Council. It was an advisory body, and was the highest court of appeal. When it heard appeals from the courts of overseas territories like India it was called the 'Privy Council'. The work of this is commendable, and. in establishing the highest judicial standards. It is unique in the Indian Legal History. Appeals from India to the Privy Council were abolished in 1949, when the Supreme Court of India was established.

Appeal:

i) The Mayor's Court: An appeal was allowed from this court to the Governor & Council and a second appeal from that to the King-in-Council if the value of the suit was above 1000 Pagodas.

ii) Supreme Courts: The Regulating Act 1773, abolished Mayor's Court (Bengal) & in its place the Supreme Court was established. An appeal was allowed from this to the King-in-Council, in all suits of value above 1000 padodas.

iii) Recorders Court: The Mayor's Courts at Madras and Bombay gave place to Recorders Courts in 1717, but appeals were allowed from these courst to the King-irs-Council.

(a) In 1800, the Recorder's Court at Madras was abolished and the Supreme Court was installed in its place, but appeal to Kings in Council was allowed.

(b) In 1823, the Recorder's Court at Bombay was replaced by the Supreme Court from which appeals were allowed to the King-in-Councii, if

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the value of the suit was over Rs. 3,000/-. *Harrington's case and Mitchell's* ca;se are noted decisions,

iv) Sadar Diwani Adalats:~In Presidencies these had been established before 1781, appeal was allowed from these to the King-in-Council, if the value of the suit was 5000 pounds and above. The earliest case was *Andrew Hunter V.Raja of Burdwan.*

v) Pursuant to the Indian High Courts Act 1861, the three High Courts were established in the place of the Supreme Courts. But, appeals were allowed to the Privy Council, if the value of the suit was Rs, 10,0007- and above.

Special leave appeals were also allowed,

vi) In 1935, the Govt. of India Act Provided for a Federal Court. But the above appeals from the various High Courts to the Privy Council were left untouched.

In addition, appeals were allowed from the Federal Court to the Privy Council.

Development:

i) The Privy Council by 1833 had on its record about 300 appeals. There were also a good number of appeals from Sarad Diwani Adalats.

ii) Many reforms were introduced, time and again. By the Act of 1833, the composition of the Privy Council was changed. More Lawyers & Judges were allowed, and it was kept on par with the House of Lords. From 1915 to 1949, there was a separate bench of the Privy Council to hear appeal from India.

iii) Appeals to the Privy Council were abolished from Oct. 10, 1949, by the constituent Assembly which made the Abolition of Privy Council Jurisdiction Act. Pending cases were transferred to the Federal Court. The Federal Court continued upto 26-1-1950, and was abolished when the Supreme Court was established.

Appraisal:

i) As a judicial institution, it was unique & almost without a parallel in history.

ii) The range of its territorial & other jurisdictions from the British Empire covered nearly 1/5 of the human race.

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iii) The Judges were pre-eminently -qualified, had professional eminence and legal learning to meet the onerous duties on the Bench, Their rare insight into the peculiar issues involved in the cases, their appreciation of personal laws like Hindu Law & Muslim Law & their mastery of law could be the reasons for its success.

iv) Its association with India for about 175 years gave to Indian Law, *uniformity & definiteness.* The Common law and England could extend its benefit to overseas territories.

v) The Govt. of India paid tributes to the Privy Council on 6th February 1950. It commended the valuable services rendered by it and the 'high sense of detachment, independence & impartiality' it displayed. It was a unifying force in the judicial realm of India.

CHAPTER 9 CODIFICATION

AND THE LAW COMMISSION

Ch. 9-1. Codification:

The word "Codification" was invented by Bentham. It meant "conversion of all law, into a written and systematically arranged code". Every rule according to him, was based on utility that is, "the greatest happiness of the greatest number". This concept had its tremendous impact in England, and, many reforms were made on the basis of this Philosophy. It is this Philosophy that became the basis of the British Administration in India. Both Lord Macaulay and James Mill were the disciples of Bentham. Lord Macaulay strongly demanded in the British Parliament (When the Charter Bill was in progress) that codifications was essentail in India as the position of law was at a sorry state of affairs.

Ch, 9-2. Charter Act 1833 : Water-shed :

The sequence to the Bill was Charter Act of 1833, passed by the Parliament. It provided for

i) An All India Legislature (Legislative Council)

ii) Creation of an office of a law member.

& iii) Appointment of a law commission, *This charter Act (1833) is hailed as the watershed in the legal history of India.*

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Legislative Council: The idea of a single legislature in India had been mooted by Lord William Bentinck (1829). Of course, the Charter Act's Legislature was of different nature than what he had envisaged.

The Council established at Calcutta was hailed as a great step forward in the growth of Indian law on judicious lines and the codification there of. It had the powers to make law, to amend, to alter or to repeal any law in India, subject only to a few restrictions.

The Council had the Governor-General, three ordinary Member. This Legislative Council was subordinate to the British Parliament. (Its Acts were to be placed before the Parliament). These Acts were the Acts of the Govt. of India having the same force as Acts of Parliament.

ii) Law Member: The Legislative Council had a law member on its panel (Governor General, three ordinary members and one Law Member). He could sit & vote only when the council was sitting and making laws & Regulations. He could employ all his knowledge & ability in discharging his functions, and give a shape and coherence to the several laws passed by the council.

iii) Law Commission ;

With a view to securing uniformity and providing a simple general system through the process of consolidation and codification the Charter Act of 1833 (Sn. 53) provided for the appointment of the Law Commission of India.

The Commission was charged with the duty to ascertain, consolidate amend and prepare a code of laws common to the whole of India & to the 'natives & foreigners'.

Ch. 9-3. **Brief Survey : The First Law Commission : 1835 : .**

The first law commission was appointed by the Govt. of. India in 1835. Highly qualified legal experts & persons having familiarity with local systems were selected. Lord Macaulay way appointed as its Chairman. It had five members.

Work :-

1. It drafted the Penal Law first. This later became the I.P.C.

2. Next it drafted the Civil Procedure Code and the Limitation Act. Later they became Acts.

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3. The lex loci Report.

The drafts also contained 'notes[5].

Second Law Commission (1853): Romilly was the Chairman.

It recommended the establishment of High Courts in place of Supreme Courts & the adoption of C.P.C. to all areas coming under the High Courts. It drafted the Criminal Procea -e code.

Third Law Commission *i* 1861,

This submitted seven reports. This period is styled as the Golden age of Codification in British India.

On the basis of these many Acts were passed.

1) Indian Succession Act.
2) Indian Trusts Act,
3) The Religious Endowment Act,
4) The Court fees Act etc.

Fourth Law Commission :

1879.

Much work was based on Local Indian Law & its customs. On its report 4 Acts were made, including Easement Act, Negotiable Instruments Act e-c.

Fifth Law Commission : 1955 (Appointed by the Govt. of India)

This Commission prepared its reports suggesting drastic changes & reforms in the legal system & judicial determination. It submitted 61 Reports, relating to sales tax, Hindu Marriage Act, Special Marriage Act, etc.

Ch. 9-4. **Assessment of I & III Law Commissions,**

The First Law Commission'

According the Charter Act of 1833, the First Law Commission was appointed by the Govt. of India. Lord Macaulay was the Chairman. (1835-37). There were in all *5* members. The Commission worked upto 1843 when it was wounded up.

The main contribution's of the Commission are:-

(i) Drafting of the Indian Pena! Code: The Criminal law in India was chaotic, confusing conflicting with a lot of patch-work, there was the Muslim Criminal law in operation with its own peculiar features.

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Great tributes go to this commission, especially to Lord Macaulay, for the most constructive & valuable contribution in drafting the LP.C (1837). This code has stood the test for time.

The Second signal contribution of the commission, in the drafting of the Code of Civil Procedure and the Limitation Act.

The third contribution, (of no trivial importance) is the lex Loci Report prepared by it to solve the peculiar civil law problems of non-Muslims and Non-Hindus resident in Mofussils in India.

Ch. 9-5. Lex Loci Report :-

(Lex Loci = Law of the land or place)

The First law commission was appointed in 1835 under the charter Act of 1833, with Lord Macaulay as the chairman, Among its achievements, one of some significance is the *Lex Loci Report* (1837).

The Anglo-Indians had complained to the court of Directors of the Company that (excepting the places under the jurisdiction of the Supreme Court) the civil law applicable to them in other places in India was not' clear and that there was much confusion.

The Christians, Anglo_Indians, Parsees the Portuguese, the Armenians-had no civil law applicable in the Moffusils in India. The courts were applying the *substantive law of the country of the person* or his ancestors. This had led to great difficulty. This was referred to the Commission.

The commission considered the question of law applicable to non-Hindus & non-Muslims and presented a report in 1837, which is called the Lex Loci Report.

The Commission stated that to these people if there was no law of the place then there was no law whatevr and hence it recommended that the law of the land of England should be applied. The draft contained a number of recommendations and also 'notes' explaining the various provisions.

The converts to Christianity had a specific problem. To them.it stated. that on conversion to Christianity the Hindu or Muslim law was not applicable to them, and, hence, lex loci would he applicable. They required protection against any loss of rights or properties as a result of conversion. English law was secular and was already operative in Presidency towns: in mofussils the courts were familiar with "justice equality and good conscience" maxim of English Jaw. Hence, it recommended the use of English substantive law to all except the Hindus & the Muslims,

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There was vehement opposition to the Report: hence, the report almost died by efflux of time.

Purpose: One useful purpose was served by it. It showed the utter confusion and uncertainty of the law in India.

Implementation: One part of the Report was implemented. The Hindu & Muslim law provided that on conversion, the Hindu's or Muslim's property would he forfeited. There was a great pressure against this by non Hindus & non-Muslims. Hence, the Caste Disabilities Removal Act 1850 was made. This abrogated the Hindu or Muslim law which forfeited or affected the properties or the inheritance of the convert. Thus, though the lex loci Report was a failure, is had some measure of success to its credit.

Ch. 9,6 **The Third Law Commission.**

The third law commission was established on 2nd Dec. 1861 to frame a body of substantive law for India using the law of England as the basis, The Commission had six members and the membership underwent some changes as time rolled by. The Secretary of State, Sir Charles Wood, requested the Commission to go on piece-meal basis. Thus began a new phase in the codification process.

The period of the third law commission was captioned as "The codes are coming" by Rankin. This was the golden era of codes in India.

Sir Henry Maine was one of the members of the commission. His successor was Sir James F Stephens. These two stalwarts were mainly responsible for the success of this commission. Stephen is remembered as a great legislator.

Assessment:

i) The Commission submitted 7 Reports.

ii) The Commission was responsible for drafting in all 211 Acts the notable enactments are

The Indian Succession Act

The Evidence Act

The Contract Act

General Clauses Act

Criminal Procedure Code (Revised) 1872.

The Divorce Act

The Limitation Act etc.

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iii) The Commission had to meet 'many peculiar & insurmountable difficulties. In many areas there were conflicts, in others there were no rules at all: There were also rules haphazardous, vague and ambiguous. The interpretations by the courts had added much confusion and, as Henry Maine observed "leaving India to be governed by the courts was most disastrous".

Some felt that there was too much of codification. Hence, the process was slowed down for some years. However, the period 1862-1879 is rightly called as the era of codification. This removed much of the confusion & complexities of the Indian Legal System.

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CHAPTER-10

LEGAL PROFESSION

The Law Commission's Observation:

"A well organised system of judicial administration postulates a" properly equipped & efficient Bar"

This means, the legal profession, is an essential limb of the machinery for the administration of Justice. It is the profession that enables the courts to effectively administer justice: is helps the courts to marshall the evidence for & against, to determine the facts, to provide the best legal argument for or against the case.

i) Though the charter of 1726, established the Mayor's Courts at the three Presidency towns, there was no provision relating to the regulations of legal practitioners. There was no organised legal profession persons who had no legal training or knowledge of law, were practising: some were the dismissed employees of the E.I. Company.

ii) The first step in the direction of organising the legal profession, .started with the establishment of the Supreme Court at Calcutta in 1774. The Regulating Act 1773, empowered the Supreme Court to approve, enroll & admit the advocates & attorneys at-law, as the court found fit. The court had powers to remove an advocate or attorney on "reasonable cause". This was exclusively to the British barristers attorneys & solicitors, and, Indian legal practitioners *were not admitted.* The same position prevailed later when Supreme Courts were established at Madras & Bombay,

iii) In the E.I. Company's courts there were the Vakils or pleaders practising in Bengal, Bihar & Orissa. Many reforms were made. The Legal

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Practitioners Act 1846, made certain changes. It allowed people of any nationality or religion to practice; & the barristers were also eligible.

iv) With the establishment of the High Courts at Calcutta, Bombay and Madras in 1861, provisions were made to admit advocates, Vakils & attorneys as the High Courts deemed fit. The other High courts followed suit.

v) The Legal Practitioners Act 1879, aimed at consolidating and amending the law relating to legal practitioners. Persons with LL.B. degree from Bombay University were permitted to be enrolled, in Bombay, as advocates. These who has taken LL.B. from any other Indian university were enrolled as Vakils. As there was paucity for lawyers, even non-law graduates were allowed to join after passing the pleadership exam.

vi) Chamber Committee & the Bar Council Act 1926 :-

At Calcutta only barristers were allowed to practise. In other High Courts barristers & advocates were practising. There were also the vakils & pleaders. Vakils were treated as inferior to the barristers. The classification was not healthy. Hence, there was a demand for an all-India Bar. The Chamber Committee headed by Sir Edward Chamier, was appointed. This stated that time was not ripe to form an all-India Bar. It recommended for the constitution of the Bar, on Provincial basis. On the basis of this the Indian Bar Council Act 1926 was passed. It provided for a Bar Council to each High Court. It was a body corporate with the powers to make bye-laws. The High Courts had complete control over such bar councils.

iii) All India Bar Committee in 1951 with the chairmanship of Justice S.R.Das, was constituted by the Govt. of India. This recommended for a unified national Bar with a common role of advocates, who could practice in all the courts in India.

The Law Commission in its 14th Report recommended in 1958 for an All India Bar. On the basis of this, the Advocates Act 1961 was passed, by the Parliament.

i) It established an All India Bar Council and a common roll of advocates.
ii) Such an advocate is entitled to practise in any court in India, including the Supreme Court.
iii) There is only one class called as advocates.
iv) It has established an All India Bar council and also State Bar Council, on democratic lines. (Elected Members)
v) All India Bar Council maintains a common roll of advocates, lays down standards of legal education, controls State Bar Councils -etc.

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vi) The State Bar Councils are empowered to admit persons as advocates. It may appoint disciplinary committees to enquire into cases of professional misconduct of advocates. These are judicial proceedings. Appeal is allowed from it to the Bar council of India.

There is lot of thinking and debate going on in India, to improve the standard of legal education, which is the basis of an efficient legal profession.

CHAPTER-11

MISCELLANEOUS

CH. 10 -1. The Choultry Court.

This was a court where the local disputes were decided by the Indian Adigar or Town Governor sitting at the town house called Choultry. But, as more and more territories came to the control of the East India Company, the latter started controlling the Choultry Courts.

The Choultry Court had a Judge - the Adigar - who decided small civil & criminal matters in Madraspatnam (The present Madras City). One Adigar Kannappa, abused his position, connived at selling of children for slavery. He was therefore dismissed in 1652 and in his place, two English Aldermen were appointed to sit and dispose of cases. They dealt with only petty cases. There were no courts to deal with offences above petty cases.

There is not much information to state how justice was being meted out. But in 1641, an Indian had killed a woman - his keep - He was given death penalty. There was no trial. In Black Town (part of Madras), the Raja allowed the punishment according to English Law.

Hence, in the Choultry Court there was no systematic procedures or forms.

This led to the Charter of 1661, which vested the judicial power in the Governor & Madras was made a Presidency. The first jury case trial in India was Mrs. Dawea Case. The jury held not guilty & she was acquitted.

The Choultry Court had limited jurisdiction. Appeal was allowed to the Governor & Council.

This court was abolished in 1880.

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Ch., 11-2. The Zamindari Court.

The East India Company bought Calcutta, Govindapur etc., and got the powers of the Zamindars of those areas. The Zamindari Courts operating there came to the Company. This had jurisdiction over Civil and Criminal matters & to give punishments like whipping, fining & imprisonment. This was also called the Cutchery Court. It decided cases between Europeans and Anglo Indians. The Mayor's questioned this power. This led to the creation of two separate courts :

1) For Europeans, the Governor and Council.

2) For Indians, Cutchery Court. In Civil matters it dealt with cases above Rs. 207- value. Appeal was allowed from the Choultry Court to the President in Council.

For Calcutta, a collector was appointed who decided civil cases. For Indians, this continued for many more years, until it was abolished after the battle of Plassey 1757.

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Ch, 11-3. Recorder's Courts.

King George III issued the Charter of 1798, to create the Recorder's Court.

It considted of the Mayor & three Aldermen, and also a Recorder, who was a barrister with at least 5 years standing.

The Recorder was appointed by the Crown & was the president of the Court. The Court had all Civil, Criminal, Admiralty etc. jurisdiction. It had no jurisdiction over revenue.

It administered Hindu Law for Hindus & Muslim Law for Muslims and, the defendants law if there were mixed religious parties.

The Recorders' Court was better than a Mayor's court, as it had a Barrister as Recorder. Appeals were allowed from Recorders Court to the King-in-Council if value was 1,000 pagodas or more.

This court was a great progressive step in making the judiciary independent.

In 1800, the British Govt, abolished the Recorders Court and in its place the Supreme Court was established at Madras. In 1823, the Bombay Recorders Court was replaced by the Supreme Court.

Ch. 11-4. Court of Requests.

The Charter of 1753 had established in the three Presidency towns of Calcutta, Bombay & Madras courts of Requests. These dealt with petty civil

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cases quickly, cheaply and summarily. The suit value was upto 5 pagodas. (Rs. 15/-) This value was increased in a later charter to 80 Rupees.

Composition : The courts were manned by the commissioners. There were 8 to 24 commissioners appointed by the Govt. from among the Company's servants. [Later, half of them were filled up by ballot by the Other commissioners.] Three Commissioners were sitting to decide Cases.

Sittings : The court was sitting once a week.

Assessment : The court was a real boon to the poor litigants, as it applied to all ligitants. It was not subject to any undue influence and it could do justice to the litigants.

Act of 1850 : This abolished the court of Requests. The reasons were : It had no powers to compel the attendance of litigants; had no contempt jurisdiction; had no jurisdiction over executors. The courts were abolished & in their places "Small Causes Courts" were established.

THE END

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