UNIT- I

ESTABLISHMENT OF EAST INDIA COMPANY –

The first East India Company was incorporated in England under a Charter granted by Queen Elizabeth on 31st December 1600. The company was given executive trading right in Asia including India, Africa and America. The trading area so defined covered almost every part of the world except Europe. No other British subject could trade in this area without obtaining a licence from the company. The charter was granted for 14 years and it could be renewed for another 15 years only if it did not prejudicially effect the Crown and its people.

The company was managed by Court of Directors. The members of the company in a general meeting, called “the court” elected annually a Governor and twenty-four directors to look after and manage the affairs of the Company.

In early days the administration of justice in the settlement East India Company was not a high order. There was no separation between the executive and the judiciary the judiciary was under the control of the executive the judges were not a law experts. The company gave lesser importance to the judicial independence fair justice and rule of law. The administration of justice and developments of courts and judicial institution during this period may discussed under the following headings –

CHARTER OF 1661 –

The charter issued on 3rd April, 1661 by Charles II has a special significance in the Indian legal history. By this charter the Company was empowered to appoint a Governor and council at its factories. In Addition to other powers the Governor and Council at its factories. The charter authorized the Governor and Council of Englishman inhabiting the settlement of the company. The Governor and Council of each factory to hear and decide all type of civil and criminal cases including the cases of capital offences also and it could award any kind of punishment including death sentences. Thus the Charter of 1661-

1. authorised the company to try and punish all persons living under it, including the Indians,
2. opened the doors for the introduction and application of English law in India,
3. Conferred judicial powers on the executive, viz., the Governor and Council.

ADMINISTRATION OF JUSTICE IN SURAT –

The East India Company established its first factory in India at Surat in 1612 during the time of Mughal Emperor Jahangir. In 1615 the Mughal Emperor on the pleading of Sir Thomas Roe issued a Firman, the Mughal Emperor allowed the Englishman to live according to their own religion and laws and to settle dispute among themselves by their president, however the disputes between on Englishman and an Indian were to be decided by the local Indian courts.

Constitution and Functions of Factory- The factory was administered by a President and Council who were appointed by the Company. The decisions of the majority of the members of the council were the decisions of the Company. Apart from the exercising their powers for trading purposes the President and his Council also had the power to administer law and justice. English people were governed by a dual system of laws namely:-

(a) In their own matters by the laws of England; and
(b) In matters with the Indians by the native laws of this country.

The Surat settlement of the Company remained in prominence until 1617. Due to the transfer of the seat of the president and council to bombay in that year, Surat lost all its importance for the country.

SETTLEMENT IN MADRAS BEFORE 1726-

In 1639 Francis Day acquire a piece of land from a Hindu Raja for the East India Company and constructed a fortified factory were Englishman and other Europeans and therefore the area of the factory came to be known as while town and the people residing in the village Madras, Patnam were mostly Indians and therefore it came to be known as Black Town. The Whole Settlement Consisting of white town and black town came to be known as Madras. In judicial administration in Madras divided in 3 stages. First, Second and Third.

FIRST STAGE (1639 to 1665) –

White town before 1665 Madras was not presidency town and it was subordinate to Surat. The administrative head was called 'Agent' and he was to administer the settlement with the help of Council. The serious criminal cases referred by them to the Company's authorities in England for advice. But there was defects the judicial power of the agents and council was vague and indefinite and much delay also, they did not have any elementary knowledge about law. They were Merchant. There was no separation between executive and judiciary.

The president of the Surat factory and members of His Council constituted a court to decide dispute between the Englishman interest in accordance with their own laws and customs. They were to decide both civil and criminal cases.

Capital offences dealt by a jury there was no separation between executive and judiciary. The president and the members of his council who were to decide cases and administer justice were merchant. They did not have even elementary knowledge of English law.

The cases were decided by them according to their wisdom, commonsense. And the native judges were corrupt bribery was rampant. They had no request for law and justice.

Surat was the chief trading center till 1687. But there after it lost its importance because in 1687 the headquarters of the president and council were transferred from Surat to Bombay.

BLACK TOWN –

The old judicial system was allowed to function there was a village head man known as Adigar or Adhikari who was responsible for the maintenance of Law and Order. Adigar administered justice to the native at the Choulby Court. According to the long established usages, Choulby Court was court of a petty cases. The Company had no power to inflict death sentences under the Charter of 160 and the agent in Council could inflict such a sentence only under the authority of local sovereign. The appeals front the Choultry Court were to be heard by the agent in Council. An Indian native named Kannappa was appointed Adigar but he misused his power and consequently he was dismissed from the office and the English

servants of the office and the English servants of the company were appointed to suit at the Choultry court.

SECOND STAGE – (1665 – 1683) –

Although the charter of 1661 provided that the governor and council could decide every matter according to the laws of England, nothing was done until 1665, when the Dawes case arose. In 1665 one Mrs Ascentia Dawes was charged with the commission of Murder her slave girl and the Agent- in – Council referred the case to the Company's authority in England for advice. After raising the status of agent and Council of the factory at Madras to try Mrs. Dawes with the help of Jury and an unexpected verdict of not guilty was given and consequently Mrs. Dawes was acquitted. Later on 1678 the whole judicial administration was re-organized. The judicial administration in both the towns was improved. In 1678, the Governor and Council resolved that they would sit as Court for two days in a week to decide cases in civil and criminal matters with the help of jury of twelve men. The court was called as the High Court of Judicature. This Court decided important cases in civil and criminal matters and also heard appeals against the decisions of the Choultry Court.

WHITE TOWN –

The court of Governor and Council was declared to be the High Court of Judicature. It was to hear all case of the inhabitance of both towns with the help of jury and also hear the appeals from the Choultry Court. It was decide cases according to English Law. The Court was to meet twice a week.

BLACK TOWN –

The Choultry Court was also re-organized. The number of the judges was increased from 2 to 3. All the judges were Englishmen. At least 2 of them were to sit in the Court for 2 days in each week. The Choultry Court was empowered to hear petty criminal cases. It was also empowered to hear petty civil cases up to 50 pagoda and the cases of higher value with the consent of the parties.

THIRD STAGE (1683 – 1726) ADMIRALITY COURT –

In 1683 King Charles II issued a Charter. It empowered the Company to establish Courts of Admiralty in India. The Court of Admiralty was authorized to try all traders who committed various crimes on the high seas. The court was empowered to hear and determine all cases concerning maritime and mercantile transactions. The court was also authorized to deal with all cases of forfeiture of Ships, Piracy, Trespass, Injuries and Wrongs. It was stated that the court would be guided by the laws and customs of merchants as well as the rules of equity and good conscience in the task of administration of justice.

The provision of the Charter of 1683 was repeated by James II in a charter issued in 1686. On 10th 1686 the court of admiralty was established at Madras John Grey was appointed judge of the court and to assist him 2 other English man were appointed as his assistants on 22nd July 1687. Sir John Biggs who was a Professional Lawyer learned in Civil law was appointed as Judge Advocate in Chief Judge of the Court.

Thereafter the Governor and Council relinquished the judicial function and ceased to sit as court. The Jurisdiction of the Admiralty court was not confined to Mercantile and

Maritime Cases. It also decided both civil and criminal cases. Further it heard appeals from the Mayor's Court. Thus it became a General Court of the Settlement. The Admiralty court was functioning regularly till 1704, but thereafter it ceased to sit on regular basis and gradually it disappeared, and its jurisdiction was transferred to the Governor and Council.

MAYORS COURT –

In the year 1687 Company established Madras Corporation and Mayor's Court was the part of this corporation. In the year 1686 Madras government levied a house tax on the Madras City population to repair the City wall. But people of Madras, Local people did not pay tax and Company faced problems and difficulties to collect tax, after this company decided that to make the tax collection easy a body should be formed consisting of English men as well as Local Indians population so it will become easy for the company officials to collect the tax.

The corporation came in to existence on September 29 1968 which consists of a one Mayor, 12 Alderman and 60 to 120 Burgesses. It was decided that every year new Mayor will be elected from Alderman by Alderman and Burgesses and retiring Mayor can be re-elected by them.

The Alderman and Burgesses got the power to remove the Mayor if he is unable to perform his duties, only Englishman becomes the Mayor. The Alderman hold the office as long as they stayed in Madras City indirectly they hold the office for life long. Mayor, Burgesses holds the power to remove the Alderman from office also if he did not perform well. The charter appointed 29 Burgesses and then remaining Burgesses were appointed by the Mayor and Alderman. Among 1st 60 Burgesses the caste head were selected as the Burgesses.

This was the nature of 1st corporation the Mayor and three Senior Alderman were to be the justice of the peace. The Mayor and Alderman were to form a court of record which was authorized to try civil as well as criminal case. This court was known as Mayors court.

THE CHOULTRY COURT –

The old Choultry Court was recognized and allowed to continue by the Governor. The number of Judges was increased to Three – Two Judges were required to preside over the trail of cases. The Court met 2 days in each week. The court was empowered to try civil cases up to 50 Pagodas (Pagoda was a gold Coin, One Pagoda was equivalent to 3 Rupees) and petty criminal cases. The High Court of Judicature was authorized to hear appeals from Choultry Court.

Conclusion:-The overall picture of the administration of justice in Madras was not very good in these early stages. The system suffered from many drawbacks. The most outstanding of them are the following:-

1. Absence of proper judicial system.
2. Uncertainty of laws.-The Courts and the people did not know the law applicable to them and their disputes.
3. Lack of facilities in the jails.-The inmates lived in inhuman conditions.
4. Unfair trial.-The English principles of fair trial such as the principles of natural justice and benefit of doubt to the accused were not observed.

5. Severe punishments- usually the punishments were barbarous and inhuman. They were based on the mixed idea of deterrence and prevention.

SETTLEMENT IN BOMBAY –

Portuguese were the 1st European to acquire the island of Bombay in 1534 from the King of Gujarat in 1661. Portuguese King Alfonsus VI transferred the island to Charles II as Dowry on the marriage of his sister Catherine with the British King. Charles II transferred it to the East India Company in 1668 for an insignificant annual rent of 10 pounds. Before 1726, the Judicial system the Island of Bombay grew in Three Stages –

1) First Stage – (1668 – 1683)
2) Second Stage – (1683 – 1690)
3) Third Stage – (1781 – 1726)

First Stage 1668 to 1683 –

During this period two judicial systems were established. The first of them was established in 1670. According to this, Bombay was divided into two divisions. Each division had a court consisting of five judges. The Custom Officer of the Division was the President of the Court. Some of the judges in these courts were Indians.

The jurisdiction of this Court extended to petty criminal cases, e.g. thefts involving the stolen property upto 5 xeraphins and similar other cases. The civil cases which came before this court, were also of petty nature. It had no jurisdiction to decide cases involving more than 200 xeraphins. Appeals against the judgements of this court could be filed in the court of the Deputy- Governor and Council.

The Deputy-Governor and Council worked as a superior court having both original and appellate jurisdiction, in all civil and criminal cases. In the civil cases, it had the jurisdiction to entertain matters of the value exceeding 200xeraphins. All the serious offences, which could not be entertained by the Divisional Court, were tried by this court with the help of jury.

The judicial system established in 1670, was quite elementary and primitive. No disctinction was made between the executive and the judiciary. Nor was there any provision for a lawyer-member in the courts. Many requests were made by the Deputy- Governor to the company for providing a man learned in law, but it did not care

On 1st August, 1672, a governmental proclamation was made. By this proclamation was made. By this proclamation the existing Portuguese law in the island was replaced by the English law. From then onwards, the English law became the law of the island in all matters. Under this proclamation a new judicial system was also established under which three types of courts were created.

Court of Judicature- A Court with Wilcox as its judge, was established to hear all civil and criminal cases. The Court also had jurisdiction in matters of probate and testaments. For civil matters the court sat once a week. All the cases were decided with the help of jury. A Court-

Fee at the rate of 5% was also imposed in civil cases. For deciding criminal cases, the court used to sit once in a month.

Court of Conscience- This court was also presided over by Wilcox, it was called as Court of Conscience because it provided quick and summary justice. It entertained only petty cases and decided civil matters of value upto 20 xeraphins.

Court of Appeals- The Deputy- Governor and council functioned as court of appeal. They heard appeals against the judgements of the court of judicaturein all matters. The judicial system which was established under the plan of 1672 worked well. It was quick, inexpensive and efficient. Its main defect was that the judges did not enjoy independence required for good administration of justice.

Second Stage(1684-1693)- under the new system of judicial administration, a court of Admiralty was established in Bombay on the lines of the court of Admirality established in Madras under the charter of 1683. The Company found its authority to establish courts under the earlier Charter of 1683 granted by Charles II. The Charter provided for the establishment of Courts at such places as the Company might direct for Maritime causes of all kinds, including all cases of Trespasses, Injuries and Wrongs done or committed upon high seas or in Bombay or its adjacent territory, and each Court was to be held by a learned judge in civil law assisted by two persons chosen by the company. Such Courts were required to decide cases according to the rules of equity and good conscience and the laws and customs of merchants. Accordingly, an Admiralty Court was established at Bombay in 1684. Dr. St. John was also authorized to act as Chief Justice of the Court of Judicature. The Court of Judicature was again created, as the authority of the Admiralty Court was not sufficient to cover all other civil business.

In 1690, Siddi Yakub Admiral Emperor invaded the island of Bombay and the judicial system of Bombay came to an end. From 1690 to 1718, in fact, the machinery to administer justice was almost paralyzed in Bombay. Thus the period from 1690 to 1718 is a dark period in Bombay's Legal History.

Third Stage(1718 to 1726)- A new period in the Judicial history of Bombay began with the revival and inauguration of a court of judicature on 25th March,1718 by Governor Charles Boone. It was established by the order of the Governor and Council which was later on approved by the Company authorities. The court of Judicature of 1718 consisted of ten Judges in all. It was specially provided that the Chief Justice and Five Judges will be Englishman. The remaining Four were required to be Indian representing Four different communities, namely, Hindus, Mohammedans, Portuguese – Christians and Parsi. All English Judges were also members of the Governor's Council and enjoyed status superior to Indian Judges. Three English judges formed the quorum of the court. The Court met once a week. Indian Judges, who were also known as "Black Justice" were included mainly to increase the efficiency of the Court and their role was mostly that of assessors or assistants of the English judges. They do not appear to have enjoyed equal status with English judges.

The Court of 1718 was given wide powers. It exercised jurisdiction over all civil and criminal cases according to law, equity and good conscience. It was also guided by the rules and ordinance issued by the Company from time to time. It was necessary for the Court to give due consideration to the customs and usages of the Indians. Apart from its jurisdiction over probate and administrative matters, it was further authorized to act as a Registration House for the registry of all sales concerning houses, lands and tenements.

An appeal from the decision of the Court of Judicature was allowed to the Court of Governor and Council in cases where the amount involved was Rs. 100 or more. A notice to file an appeal was to given within Forty-Eight hours after the judgment was delivers to the Chief Justice of the Court of Judicature. Moderate fees were prescribed by the Court for different purposes. For filing an appeal a fee of Rs. 5 was to be paid.

Conclusion- The system established in 1718 was an imporovement upon the earlier system atleast to the extent of participation of Indian judges was allowed to the administration of Indian judges. A little bit separation of executive from the judiciary had been introduced by the court of 1718, yet the executive, i.e.the Governor and Council always interfered with the independence of the judiciary. In this way the judicial system was wanting in so many respects. The canons of natural justice and the priniciples of law were violated by the defects which have been just mentioned.

SETTLEMENT IN CALCUTTA-

Job Charnock, a servant of the company, laid the foundation of the british settlement in Calcutta, on 24th August, 1960. It began with the establishment of a factory at Sutanati on the banks of river Hugli. In the year 1668 the grandson of Aurangzeb Azimushsher, Shan, and the Subedar of Bengal gave Zamindari of villages, Calcutta, Sutanati and Govindapur for annual revenue of 1195 rupees to the East India Company. In the December 1699 Calcutta became Presidency town and Governor was appointed to administer the settlement. As a Zamindar company got all powers just like other zamindar of that time. Bengal Zamindar In Mughal Empire zamindars got judicial power but collected the revenue and maintained law and order in the zamindari area or village for judicial purpose. That time Kaziz Court was established in each District, Parganah and Villages.

They handled civil and criminal matters. Normally villages panchayats solved all problems. The Judicial System was simple as everyone knew each other and transaction of each other Moghul Kings never paid any attention to Judicial System that time nothing was organized. The highest bidder became the Kazi. Justice was purchased, corruption was rampant Kazi never got salary so Kazi court fined the criminal and earned money. After this demand money from the complainant for giving him justice. The other zamindars when gave death sentence the appeal went to the Nawab, but company never did this the appeal from Zamindar's. Collectors Court went to the Governor and Council.

In Calcutta that time Collector enjoyed all the powers up to the year 1727. With the Charter of 1726 the new system was started in Calcutta presidency. Before this Charter the authority was given by company and zamindar but the Charter of 1726 was a Royal Charter. The important of this company but after this Charter Court got their permit authority from the British Crown.

Establishment of Mayor’s Court (1726)

INTRODUCTION-

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.

FEATURES OF CHARTER OF 1726-

• The Charter of 1726 issued by King George I.
• The charter established civil and criminal courts in the presidency towns which derived their authority not from the company but from the British crown.
• The advantage of having royal courts in India was that their decisions were as authoritative as those of the courts in England.
• The charter initiated the system of appeals from the courts in India to the Privy Council in England.
• Thus, the English law was brought in to India. Principles of English law was brought to decide the disputes.
• Codification of Indian law was initiated in 1833.
• The charter also established a local legislature in each presidency town.
• The Charter of 1726 constitutes a landmark in the Indian Legal history.
• But justice continued to be administered by non professional judges, no separation of power between the executive and the judiciary.
• Position of courts before 1726 and after. The decision of the Mayors court commanded respect in England as it was created by the Crown. It was not so in case of earlier court which was created by the company.

Provisions of the charter-

• All the three presidency was to to have a corporation comprising of one mayor and 9 alderman.
• Out of the 9 alderman, two could be a subject of any prince or state having good relation with the Great Britain. Rest were to be British natural born subjects.
• Mayor was appointed for 1 year and after the expiry of term had to continue as an alderman.
• Alderman was appointed for life and in case of any vacancy the mayor and the remaining alderman would elect new alderman from inhabitants of the town.
• New mayor was to be elected by outgoing mayor and the alderman.

• An alderman could be removed on some reasonable ground by the governor and council subject to an appeal to King in council.
Thus, the attempt was to make the corporation autonomous, free from the control of the executive.

Judicial structure and composition in each presidency(civil jurisdiction)
• The mayor and the aldermen were to constitute the mayors court.
• The quorum of the court was to be three-the mayor or senior alderman with two other aldermen.
• The court was to hear and try all civil suits arising within the town and its subordinate factories.
• The first appeal within 14 days would go to governor and council. From where, further appeal lay with the King in council in all matters involving 1000 pagodas or more(then currency of Madras)
• Thus, for the first time, a right of appeal to the king-in-council from the decisions of the courts in India was granted.
• It was a court of record and had power to punish for contempt.
• Had testamentary jurisdiction, could grant probates of wills of the deceased persons.
• A sheriff was chosen annually by governor and council and functioned as police.
• The form of procedure in civil action was interesting. Court might issue warrant, bail might be allowed, defendant could be detained in custody, he could be imprisoned till the judgement was satisfied, property could be seized and sold.

Criminal Jurisdiction-

• Vested in the governor and five senior member of the council.
• They were known as justices of peace.
• Arrest persons, punish.
• Three justices of the peace were to collectively form a court of record.
• Session was held four times a year to try and punish each and everycriminal offence except high treason.
• Trials were held with the help of grand jury and petty jury.
• All technical forms and procedures of the English criminal justice system was introduced.

Important points

-Seperation of power between the executive and judiciary was partially followed.
-Executive enjoyed a large share in the administration of justice as a criminal court and appellate court from the mayor’s court.
-Aldermen were either company’s servants or other English traders.
-justice administered by non professional judges.

INTRODUCTION OF THE CHARTER OF 1753 –

In the year 1746 the French got the control of Madras presidency because of this Madras corporation which was created after the Charter of 1726 was ceased to function in the year 1749 again British got the control of Madras to establish again Madras corporation, King George II again issue a new Charter on the 8th January 1753, to the Company official utilized this chance and tried to remove all the disadvantages of the Charter of 1726. The new Charter of 1753 was made applicable to the entire presidency town. New charter changed the method of appointment of Mayor and Alderman. Governor and Council got the power to appoint the aldermen. Regarding selection of the Mayor the corporation selected the names of 2 people and Governor and Council selected one of them as the Mayor every year.

This way Mayor became the puppet of the Governor and Council. This way Mayor as well as Aldermen becomes the nominee of Government and Government got the Full Control of corporation.

This way government got the power to appoint the judges of the mayor's court and remove him also. If he disobeyed the government or Governor. Mayor's Court lost all the autonomy and Independence and became Secondary in nature. The Court was allowed to hear the Indian cases only if both native Indian parties agreed and submitted the case to the Mayor's Court. Mayor's Court got the right to take action against the Mayor. No person was allowed to sit as a judge if he was interested in the matter in any way. Mayor's Court got the power to hear the cases against the government and government defended them.

Suitors deposited money with the government not to the Mayor's Court. The new Charter also created the new court called as "Court of Request" at each presidency town to decide cheaply and quickly cases up to 5 Pagodas. This Court was established to help poor Indian litigants who cannot afford the expenses of the Court. The Court weekly sat once, and was, manned by Commissioners between 8 to 24 in numbers. The government appointed the commissioners and every half of the commissioners got retired and those places were filled by the ballot method by remaining commissioners. Commissioners sat in each court on rotations for small claims, cognizable by requests Court. If people plaintiff went to the Mayor's Court the rule was that Defendant was awarded costs, this way it saved time and money also requests court got the power to hear the Indian matters also.

There were 3 Courts, namely –

1) Court of request

2) Mayor's Court

3) Jurisdiction Court of governor and Council.

The court where appeal from the mayor court went criminal cases. Justice of the peace and Court of quarter sessions consisting of governor and Council. Regarding Civil cases, Privy Council in the England was the final authority. This Charter introduced many changes but this Charter took away the independence of Mayor's Court, which way given to this court by the Charter of 1726. The East India Company with this Charter also always followed the policy not to break the customs of Hindu and Muslims. When both Indian parties agreed that time only Mayor's Court handeled those cases. An executive enjoyed

more powers they appointed company servants as the judges. The executive handled the cases in such a way it does not harm them or did not harm the company servants or friends. In 1772 House of Commons appointed a committee of secrecy to check the affairs of the East India Company, the committee in its 7th report gave adverse report regarding Calcutta judicial system. The report stated that Mayor’s Court behaved as the wish in all the cases without following English law.

As a result of criticism Supreme Court was established at Calcutta in the year 1774.

Good feature of Charter 1753 –

The Charter of 1753 removes out the uncertainty and made it clear that the Mayor’s Court could not hear the cases where both the parties were natives unless such cases were submitted to its judgment with the consent of both parties. The Mayor’s Court could hear the suits against the Mayor, Aldermen or the Company.

The establishment of the Court of Requests was of great help to poor inhabitants. The Court provided quick and cheap justice to the poor litigants with small claims.

Defects of Charter 1753 –

1) Too much executive oriented
2) Non – professional judges
3) Judges independent on the company and governor – in – council.

Regulating act 1773
Supreme Court at Calcutta
Act of settlement

REGULATING ACT:

The company servant made lot of money in India when they went to U.K started to live lavishly and even they bought the seals of house of commas. The population of U.K started to doubt the working of east India Company. The shareholders of the company voted and started to get the big dividends from the year 1676 it was the rule that the company will pay to the British exchequer, 4 lakh pounds every year to retain its territorial acquisition and revenues. The company servants made money started to become rich and company was making losses, so company approach to British government for loan. After this House of Commons appointed a select committee and a secret committee to probe the affairs of company before giving company the loan amount. The report suggested that company should be brought under the British parliament and reports mentioned the evils of company affairs. After the parliament enacted the regulating act 1773 to remove the prevailing evils. Parliament amended the constitution of company brought company under the British parliament with this era of parliamentary enactment started.

PROVISION OF REGULATING ACT:

The term of the directors of east India Company was increased from 1 year to 4 years and provision was made that every year one fourth directors were elected in rotation. The voting power of shareholders was restricted. The company directors were required to lay before the treasury all correspondence from India relating to revenue and before a secretary of state everything dealing with the civil and military affairs o the government of India. The act appointed a governor general and council of 4 at Calcutta.

They got all the powers civil and military regarding all the company acquisition as well as revenue in the kingdoms of Bihar Bengal and Orissa. Warren Hastings appointed the 1st governor general and pother 3 came from England. All were to hold office for 5 years but king can remove them if courts of the directors recommended the removal. The Governor general got only one vote and casting vote in case of the Governor general did not get the power to overrule the majority vote because of this other 3 council members always opposed the policies of warren hasting and the Ist 6 years warren hasting found it very difficult to introduced new laws or policy. In the year 1776 one member from the council died and warren became powerful because of casting vote only in the year 1786 Governor general got the right of vote to override the decision of council because of experience they knew that without vote Governor and council fails to show the results and implement policies. The regulating act put the madras and Bombay presidency under the supervision of Calcutta presidency in matters of war and peace. The subordinate presidencies were required send regularly all details of revenue and other important matters to the governor general only in emergency situations subordinate presidencies were allowed to take decisions if required because of necessity. This madras and Bombay presidency always took the decisions without fearing Governor General.

FEATURES OF REGULATING ACT –

1) Election for Directors
2) Control over correspondence

3) Appointment of Governor general and council
4) Extent of Governor General is power
5) Bombay and Madras under control of Governor General
6) Establishment of Supreme Court
7) Legislative power under the Act of 1773
8) Prohibition from engaging private trade
9) Power to punish English servants
10) Justice of peace

CREATION OF SUPREME COURT AT CALCUTTA –

King George III on 26 March 1774 issued a Charter establishing the Supreme Court at Calcutta. The Charter appointed Impey as the Chief Justice and Robert Chambers, Stephen Caeser and John Hyde as Puisne (Normal) Judges. In India Supreme Court at Calcutta enjoyed jurisdiction in all type of matters whereas same time in England they got different Courts for each only after the passage of 100 years after the passing of judicature Act of 1873 in England all the different Court came under one.

Supreme Court consist of Chief Justice and 3 other Judges who were appointed by the King and they were to hold the office during its pleasure only the barrister with the 5 years of minimum expenses was eligible to become the Judge. The court was to be a court of record. The court got the jurisdiction in following Criminal, Civil, Admiralty and Ecclesiastical Jurisdiction.

In criminal case the court was to act as a court of over and terminal and goal delivery for the town of Calcutta and the factories. The jurisdiction of the court was not to extend to all person of Bihar, Orissa and Bengal. It extended to the servants of Majesty company servants etc.

Supreme Court was not allowed to hear the cases against the Governor General and Council and exception was crime of Felon or Treason. The appeals from the Supreme Court were made to the King in Council in England.

Governor General and Council got the power to make the laws and rule but with the condition that all the rules and law must be registered in the Supreme Court did not become effective until they were registered and published in Supreme Court. Any person in India got the power to appeal against such rule within 60 days in the king in council which then set aside such a rule or changes the law. The appeal was to be made in the Supreme Court was Calcutta within stipulated period it was mandatory to send all rules made by Governor General to a secretary of State in England. Any person in England got right to appeal against the rules within 60 days after the rule were published in the England. King in council got the Sue Motto power to change or disallow any rule without appeal within the period of 2 year. This provision of law and rule registration in the Supreme Court made it easy to introduce the new laws and rules which saved the time as now it was not required to take the permission from the England head office of the company.

The best part of that was Supreme Court reviewed the law before it become the law, the Governor General and council, Supreme Court judges and its officers were not allowed to do any private trade in India as well as they were forbidden to accept any gifts and presents. In the beginning of one of the problem with the regulating Act was that majority terms were not defined properly by the regulating Act and it lead to the conflict between the Supreme Court judges Governor General and Council.

GOOD FEATURE OF REGULATING ACT 1773 AND CHARTER OF 1774 –

1) The constitution of the company was improved by the Regulating Act.
2) The Governor General and Council of Calcutta presidency constituted the central executing authority.
3) The control of the British Government over the company was tightened and made more effective.
4) The Regulating Act authorized by the British Crown to establish a Supreme Court at Calcutta.
5) Provisions were made for the maintenance of fair and impartial administration on the company's settlement in India.

DEFECT OF REGULATING ACT 1773

Trail of Raja Nand Kumar (1775) (The judicial Murder)
Case of Kamaluddin (1775)
The Patna Case (1777-79)
The Cossijurah Case (1779-80)

Though the aim and objects of the framers of the Regulation Act were very good, many defects came to light subsequently. They were wither due to the inexperience of the policy-makers in Indian affairs or due to defective drafting of the provisions of the Act. The defective drafting of the provisions of the Act resulted in conflict between the Governor General and the members of his council. It also resulted in conflict between the Supreme Court and the Governor –General and council.

1) Conflict between Governor General and Councilors –

The regulating Act appointed a Governor General and four members of the Council. It was expected that this new set-up would improve the old defective state of affairs. In the first instance, persons, who were to occupy these posts, were also named in the Act. Only one Councilor Richard Barwell and the Governor – General Warren Hasting were appointed from amongst the Company's servants working in India. They were well acquainted with the Indian political development and the Company's role in India. The British Parliament made the mistake of sending out to India three Councilors, namely Clavering, Monson and Francis who were altogether new and were ignorant an\bout Indian affairs. They came to India at the instance of some politically influential leaders in England. They were prejudice against Warren Hastings and the Company's officials in India. Several times Governor – General and Warren Hastings found himself out-voted by the factious majority of the Council. It led to constant conflicts between the Governor – General and Members of his Council on various issues. Such frictions were bound to react on the efficient working of the Governor-General and Council, which was the highest authority in India for policy-making and decision-taking regarding the company.

CASE LAWS –

TRIAL OF RAJA NANDKUMAR (THE JUDICIAL MURDER) –

Raja Nand Kumar, a Hindu Brahmin was a big Zamindar and a very influential person of Bengal. He was loyal to the English company ever since the days of Clive and was popularly known as "black colonel" by the company. Three out of four members of the council were opponents of Hastings, the Governor-General and thus the council consisted of two distinct rival groups, the majority group being opposed to Hastings. The majority group

comprising **Francis**, **Clavering** and **Monson** instigated Nand Kumar to bring certain charges of bribery and corruption against warren Hastings before the council whereupon Nand Kumar in march, 1775 gave a latter to Francis, one of the members of the council complaining that in 1772, Hastings accepted from him bribery of more than one Lakh for appointing his son Gurudas, as Diwan. The letter also contained an allegation against Hastings that he accepted rupees two and a half lakh from Munni begum as bribe for appointing her as the guardian of the minor Nawab Mubarak-ud-Daulah. Francis placed his letter before the council in his meeting and other supporter, monsoon moved a motion that Nand Kumar should be summoned to appear before the Council. Warren Hastings who was presiding the meeting in the capacity of Governor-General, opposed Monson's motion on the ground that he shall not sit in the meeting to hear accusation s against himself nor shall he acknowledge the members of his council to be his judges. Mr. Barwell ,the alone supporter member of Hastings ,put forth a suggestion that Nand Kumar should file his complaint in the supreme court because it was the court and not the council ,which was competent to hear the case. But Monson's motion was supported by the majority hence Hastings dissolved the meeting. Thereupon majority of the members objected to this action of Hastings and elected Clavering to preside over the meeting in place of Hastings .Nand Kumar was called before the council to prove his charges against Hastings. The majority members of the council examined Nand Kumar briefly and declared that the charges leveled against Hastings were proved and directed Hastings to deposit an amount of Rs.3, 54,105 in treasury of the company, which he had accepted as a bribe from Nand Kumar and Munni Begum. Hastings genuinely believed that the council had no authority to inquire into Nand Kumar's charges against him. This event made Hastings a bitter enemy of Nand Kumar and he looked for an opportunity to show him down.

FACTS OF THE CASE:-

Soon after, Nand Kumar was along with Fawkes and Radha Charan were charged and arrested for conspiracy at the instance of Hastings and barwell.

In order to bring further disgrace to Raja Nand Kumar, Hastings manipulated another case of forgery against him at the instance of one Mohan Prasad in the conspiracy case. The Supreme Court in its decision of July 1775 fined Fawkes but reserved its judgment against Nand Kumar on the grounds of pending fraud case. The charge against Nand Kumar in the forgery case was that he had forged a bond in 1770. The council protested against Nand Kumar's charge in the Supreme Court but the Supreme Court proceeded with the case unheeded. Finally, Nand Kumar was tried by the jury of twelve Englishmen who returned a verdict of 'guilty' and consequently, the supreme court sentenced him to death under an act of the British parliament called the Forgery Act which was passed as early as 1728.

Serious efforts were made to save the life of Nand Kumar and an application for granting leave to appeal to the king-in-council was moved in the Supreme Court but the same was rejected. Another petition for recommending the case for mercy to the British council was also turned down by the Supreme Court. The sentence passed by the Supreme Court was duly executed by hanging Nand Kumar to death on August 5, 1775.In this way, Hastings succeeded in getting rid of Nand Kumar.

CRITICAL APPRAISAL:-

Chief Justice Impey in this case acted unjustly in refusing to respite to Nand Kumar. No rational man can doubt that he took this course in order to gratify the Governor-General. The trial of Nand Kumar disclosed that the institution of Supreme Court hardly commanded any respect from the natives as it wholly unsuited to their social conditions and customs. The trial has been characterized as **"judicial murder"** of Raja Nand Kumar which rudely shocked the conscience of mankind. Raja Nand Kumar's trial was certainly a case of miscarriage of justice.

The decision of the Supreme Court in the trail of Raja Nand Kumar became a subject of great controversy and criticism for the following reasons.

a) Charge against Raja Nand Kumar was preferred shortly after he had leveled charges against Warren Hastings.
b) Chief justice Impey was a close friend of Hastings.
c) Every judges of the Supreme Court cross-examined the defense witness due to which the whole defense of Raja Nand Kumar collapsed. It was also not legal according to the rules of procedure prevailing at that time.
d) After the trail, when Nand Kumar was held guilty by the Court he filled an application before the Supreme Court for granting leave to appeal to the King-in-Council but the court rejected this application without giving due consideration.
e) Nand Kumar applied for mercy to His Majesty but his case was not forwarded by the Supreme Court. The Supreme Court was empowered by the Charter of 1774 to reprieve and suspend such capital punishment and forward the matter for mercy to His Majesty. Earlier in 1765, a native, named Radha Charan Mittre was tried in Calcutta for forgery and death sentence was passed. A petition was sent to Governor Spencer from the native community of Calcutta requesting "either a reversal of sentence or a respite pending an application to the throne". The prayer was granted and Radha Charan got a free pardon from the King.
f) Nand kumar commited the offence of forgery nearly Five year ago, i.e., much before the establishment of the Supreme Court. Nand Kumar was sentenced to death under the English Statute of 1729 on a charge of forgery but this Act was not applicable to India.
g) Under the Hindu Law or the Mohammedian Law, the offence of forgery was not made punishable with death.

In view of the peculiar feature of the trail, as stated above, and the events which took place before the trail, the Judgment of the Supreme Court in Raja Nand Kumar's case became very controversial. The trail and execution of Raja Nand Kumar shocked not only Indians but also foreigners residing in India. It was considered most unfortunate and unjust. The role of chief Justice Impey became a target of great criticism. On their return to England, Impey and Warran Hastings were impeached by the House of Commons and the execution of Raja Nand Kumar was an important charged leveled against them.

The Cossijurah Case (1779-80)

Raja surendernarain Zamindar of Cossijurah was under a heavy debt to KashinathBabu. Though Kashinat Bab tried to recover the money from the Raja through the Board of Revenue at Calcutta his efforts proved in vain. He therefore filed a civil suit against the Raja of Cossijurah in the Supreme Court at Calcutta. He also file an affidavit on 13th August, 1777 stating that the Raja being a Zamindar, was employed in the collection of

revenues and was thus within the jurisdiction of the Supreme Court. The Supreme Court issued a writ of Capias for the Raja's arrest. Being afraid of the arrest the Raja avoided service of writ by hiding himself. The Collector of Midnapur, in whose district the Raja resided, informed the Council about these developments. The Council, after seeking legal advice from its Advocate-General, issued a notification informing all the Landholders that they need not pay attention to the process of the Supreme Court unless they were either servants of the Company or had accepted the Court's jurisdiction by their own consent. The Raja was also specially informed by the Council and, therefore, his people crave away the Sheriff of the Supreme Court when that official came with a writ to arrest the Raja of Cossijurah.

The Supreme Court issued another writ of sequestration on 12th November, 1779 to seize the property of the Raja in order to compel his appearance in the Supreme Court. This time the Sherriff of Calcutta. With a force of sixty or seventy armed force men, marched to Cossijurah in order to execute the writ, they imprisoned the Raja and it is said that the Englishmen outraged the sanctity of the family idol. In the meantime, the Governor –General and Council directed Colonel Ahmuty, commander of the armed forces near Midnapur to intercept and arrest the Sheriff with his party and release the Raja from arrest. Colonel Ahmuty sent Lieutenant Bamford with two companies of sepoysto arrest the Sheriff with his party. On 3rd December, 1779 Bamford, with the help of Willaim Swanston, arrested the Sheriff and his party while they were returning and kept them in confinement for three days. Later on, they were sent to Calcutta as prisoners. Council released the Sheriff's party and directed Colonel Ahmutty to resist any further writ of the Supreme Court.

The case of Saroopchand –

Sapoorchand, malzamin for the payment of revenue, was held to have become liable for payment of Rs. 10,000/- as balance of payment. He disputed his liability. Saroopchand contended that he had advanced a loan of Rs. 10,000 to John Shakespeare, a member of the Council. John Shakespeare denied the contention but admitted that there was some financial transaction between them. Saroopchand being unable to discharge his liability the Decca Provincial Council committed him to custody till such time as he shall have paid the amount. On an application for a writ of Habeas Corpus being moved in the Supreme Court, after hearing, the Court held that it was an arbitrary abuse of power. As regards the liability as treasurer, the court held that the revenue council should sue him elsewhere and not decide the claim itself. It stated that the Council had no right to be a judge in its own case and to attempt to secure its claim by arbitrary imprisonment. The Supreme Court, therefore, released Saroopchand on his giving security to appear and answer to any suit which the Company might institute against him in any competent court and to pay all sums of money as were adjudges to be due to the Company.

The case of Gora Chand Dutt –

In the Murshidabad Provincial Council, Gora Chand Dutt filed a suit against MirzaJelles to recover sum due from him Mirza claimed larger sum was due from Dutt. The judgment went against Dutt. Dutt brought a suit in the Supreme Court against Hosea, Chief of the decree. Dutt contended that the proceedings of the adalat were irregular. Though the case went in favor of the Company's Courts. It did reveal how irregular their proceedings were.

ACT OF SETTELMENT 1781

Act of Settlement came for removal of the defects of the Regulating Act. The conflict between the Supreme Council and Supreme Court reached to a very serious stage. A petition against the Supreme Court activities in Bengal was submitted to the British parliament by the Supreme Council. Besides a petition signed by Zamindars, the Company's Servants and other British subjects inhabiting Bengal was also sent to the British Parliament against the Supreme Court. British Parliament against the Supreme Court. The British parliament appointed a parliamentary committee to make inquiries into the matter and prepare a report. The committee prepares report on the conflict between the Supreme Council and Supreme Court in 1781. On the basis of this report, the British parliament passed an Act in 1781. This Act is known as settlement Act, 1781.

A survey of the history of 7 years from 1774 to 1780 shows that the provision of regulating Act 1773, and the Charter of 1774 created many problems and conflict. The chain of events and the trail of the Cossijurah case pointed a\out the serious growth of conflict between the judiciary and executive. Not only the Governor- General and Council and the inhabitants of Bengal, also submitted their petitions to the King in England.

SALIENT FEATURE OF ACT OF SETTELMENT 1781 –

The Act of 1781 was passed in order to explain and amend the provisions of Regulating Act, 1773. Some important provisions of the Act of settlement may be briefly summarized as follows:

i) The Act declared that the Governor-General and Council have immunity from the Jurisdiction of the Supreme Court for all things done or order by them in their public capacity and acting as Governor-General and Council.

ii) The Governor-General and Council and any Peron acting under their orders had no immunity before English Courts.

iii) Revenue matters and matters arising out of its collection were excluded from the jurisdiction of the Supreme Court.

iv) English law was not applicable to the natives. Hindu and Mohammedan personal laws were preserved in matters relating to succession and inheritance to lands, rents, goods and in matter of contract and dealings between parties.

v) Where parties were of different religion their cases should be decided according to the laws and usages of the defendants.

vi) The Supreme Court was empowered to exercise its jurisdiction in actions for wrongs of trespass and in civil cases where parties had agreed in writing to submit their case to the Supreme Court.

vii) It was also provided that the Supreme Court would not entertain case against any person holding judicial office in any country courts for any wrong inquiry done by his judicial decision. Persons working under the authority of such judicial officers were also exempted.

viii) The Parliament recognized Civil and Criminal Provision Courts. These Company's Courts were existing independently of the Supreme Court. It was one of the most important provisions of the Act of 1781 as it completely reversed the policy of the Regulating Act.

ix) The Act provided that the Sardar Diwani Adalat will be the Court of Appeal to hear appeals from the country courts in civil cases. It was recognized as Court of Record. Its judgment was

final and conclusive except upon appeal to the King-in-Council in civil cases involving Rs. 5000 or more. Sardar Diwani Adalat was presided over by the Governor-General and Council was also empowered to hear and decided cases or revenue and undue force used in the collection of revenue.

x) The Act of 1781 authorised the Governor-General and Council to frame Regulations for the Provincial Council and Courts.

UNIT - II

ADALAT SYSTEM: WARREN HASTINGS

Warren Hasting was the Governor of Madras. He was transferred to Bengal in 1772. As Governor of Bengal, Bihar and Orissa, he prepared the First Judicial Plan in 1772. It was the first step to regulate the machinery of administration of justice. The plan being a land mark in the judicial history became famous as "Warren Hastings Judicial Plan of 1772"

Warren Hasting was appointed as Governor of Bengal, he started his efforts for eradicating the evils in the administration of the justice and revenue collection. He abolished the system of "Double Government" and executed the Diwani functions through the Company's servants. He appointed a committee consisting of Governor and four members of his Council to find out the causes of the evils in the existing judicial administration and revenue collection. The committee was also to prepare a plan for the administration of Justice and revenue collection. The committee under the Chairmanship of Warren Hastings prepared the First Plan in 1772. This is known as Warren Hastings Plan of 1772.

JUDICIAL PLAN OF 1772

The first judicial plan was prepared by the Committee of Circuit under the Warren Hastings chairmanship. Warren Hasting administrative plan divided territory of Bengal, Bihar and Orissa into number of District. In each district an English servant of the Company was appointed as collector who was to be responsible for the collection of revenue.

Under this plan the whole of Bengal, Bihar and Orissa were divided into districts. The district was selected as the unit for the collection of revenue and for the administration of civil and criminal justice.

Courts of Original Jurisdiction

Mofussil Faujdari Adalat –

In every district Mofussil Nizamat or Faujdari Adalat was established to try all criminal cases. The Adalat consisted of Kaziz, Mufti and Moulvies. The Moulvies interpreted the Muslim law of crimes. The Kazis and Mufti gave Fatwa and render Judgment. In this Adalat Collector exercise general supervision over the adalat and saw that no corruption was made in the cases. The judgment was given impartially.

This Faujdari Adalat was not allowed to handle cases where punishment was death sentence of forfeiture of property of the accused. Such cases went to Sardar Nizamat Adalat for final order.

Moffussil Diwani Adalat-

It was a court of civil jurisdiction established in each district. The collecter was the judge of this court. In suits regarding inheritance, marriage, caste and other religious usages and institutions the court was required to apply "the laws of the Koran with regard to Mohammedans, and those of the shastras with the respect to Hindus." In matters of Hindus

and Muslims the court was helped by pandits and kazis respectively, who expounded the law to be applied by the judge.

Small Causes Adalat –

As Name Says this Adalat decided petty cases up to Rs. 10/- the head farmer of the village became the judge. This system was designed to save the travelling expenses of poor farmers as they did not need to travel to the district place for justice.

Establishment of Sardar Adalat –

Firstly, two courts were established namely Mofussil Diwani Adalat and Mofussil Faujdari Adalat over them two superior Courts were established. Namely Sardar Diwani Adalat and Sardar Nizamat Adalat. The Sardar Diwani Adalat was consisted of Governor and member of the Council and was to hear appeals from Mofussil Diwani Adalat. In the case of over Rs. 500/-. The First sitting of Sardar Diwani Adalat was held on 17th March 1773. On each appeal of 5 percent was charged. The appeal were to be filed in the Adalat within 2 months from the date of the judgment decree given by the Mofussil Diwani Adalat.

Appellate Courts-

The following two appellate courts were established-

Sardar Nizamat Adalat – Sardar Nizamat Adalat consisted of an Indian judge known as Daroga- e- Adalat. Who was to be consisted by the chief Kazi, Chief Mufti and Three Moulvies. Nawab appointed all these persons as per the advice of Governor. In case of death sentences punishment deal warrant was made by the adalat and signed by the Nawab as the head of Nizamat.

Sadar Diwani Adalat- This court was composed of the Governor and council and heard appeals from the Mofussil Diwani Adalat where the suit value exceeded Rs.500

The governor and Council supervised this adalat to control and reduce the corruption all cases were ordered to maintain registers and records. Any case older than 12 years was not accepted. District Courts forwarded their records to Sardar Adalat.

In civil cases when Plaintiff field a case defendant accused person was given only limited time to give answer then examine the witness and give the decree pass the final orders. The plan tried to reduce the expenses of people with this plan officers like Kaziz, Muftis were given salaries. Before this plan judge charged the commission but the new plan abolished this law and introduced the court fee system where fee went to government. After this plan and establishment of Courts for common Indians it became easy to approach the judiciary. Warren Hasting was very intelligent person he purposefully did not take the full charge of criminal justice system and kept the puppet Nizam alive. He did not change the forms and when possible tried to show case that company respects the Nizam like case Nizam got the power to sign the death sentences. In other clever intelligent system Warren Hasting kept alive was that following Hindus Laws for Hindus and Muslim Laws for Muslims. In this Plan Collector got the many powers Collectors was the administrator Tax Collector, Civil Judge and Superior over the Criminal Courts with this Collectors for the unlimited powers and Warren Hasting knew this the Collectors will become corrupt and he already told the Company directors of the Company understood the fear and reality of this Plan. In the year 1773 Company directed the Calcutta Council to withdraw the Collectors as they became very

corrupt. After this Calcutta government introduced new plan for the collection of revenue and administration of justice on November 23rd 1773 and put into force in the year 1774.

JUDICIAL PLAN OF 1774 –

With the plan collectors were recalled from every district in place of collectors an Indian officer was appointed called Diwan or Amil Diwan got the power to collect the revenue as well as act as a Judge in the Mofussil Diwani Adalat. The territory of Bengal, Bihar and Orissa was divided into 6 divisions with their headquarters at Calcutta, Burdwan, Murshidabad, Dinajdore, Dacca and Patna. In each division many districts were created, the complete Bihar came under the Patna Division.

A provincial council consisting of 4 or 5 English servant of the Company were appointed in each division to supervise the collection of revenue and to hear appeals from the cases decided by the Amil and Indian Diwan. The appeals from this Provincial Council were allowed if the case amount was more than Rs 1000/- the appeal went to Sardar Diwani Adalat. This time also Warren Hasting new that the Provincial Council will do the more harm and more corruption then the collectors. Warren Hasting thought this plan as temporary plan but regulating act was passes in this time and Warren Hasting could not change the Plan until year 1780.

JUDICIAL PLAN OF 1780 –

The Indian Civil procedure Code prepared 1780. Warren Hasting knew that the Judicial Plan of 1774 was not perfect and when Warren Hastings again got the chance and he made changes to the Judicial Plan of 1774 on April 1780. New plan was introduced as per the Plan of 1780. Judicial and Executive functions were separated. .

Provincial Council –

No Judicial work only revenue related work, collection and revenue cases. But with this plan the problem was that area was vast and Adalat were few to administer those large areas, because of this cases were more time was limited with the judges and this arrears piled up in every Adalat. 2nd problem was that witness have to travel lot to reach the Adalats. There was only one Adalat in the whole Bihar, because of this people thought is better not to file the cases in courts as filing cases in court meant delayed justice, physical harassment waste of time and money.

As per the Judicial Plan cases up to Rs. 100/- were referred to the person who stayed near the place of litigant but before this. It was compulsory to file the case in Adalat and 2nd problem was that the person who works as a Honorary Judge and he did not get any salary. The Zamindar or Public Officer acted as an Honorary Judge and they charged money for this and also Zamindar got the chance to do corruption as he became the Honorary Judge. Warren Hasting was not satisfied with the Plan of 1780 he always thought about the improving Judicial System in India.

On 29th September 1780, Hasting proposed in the Council that Chief Justice, Sir Elijah Impey be requested to accept the charge of the office of the Sardar Diwani Adalat.

Impey accepted this offer. He remained in sardar Diwani Adalat for a year but he introduced lot of reforms in Sardar Diwani Adalat. Impey drafted many reulations to reform the Adalat on November 3rd 1780. First reform regulation was passed to regulate the

procedure of the Diwani Adalat. As per this rule he was allow to take the help of Hindu Pundits or Muslims Mulla if it was necessary to understand the cause or case.

Impey compiled a civil procedure code for the guidance of the Sardar Adalat and Mofussil Diwani Adalat, it was the First Code of CivilProcedure to be prepared in India. It was promulgated by the Council on July 1751 in the forms of regulation it was the digest of the Civil rules. The Code consolidated at one place a detailed Civil Procedure. The code contained 95 clauses and with it all the previous regulations regulating to civil procedure were repeated. The code of 1781 clearly defined the functions, power and jurisdiction of Sardar Diwani Adalat.

This code was translated in person and Bengali language that time in India. Impey was doing great job, but in England, people were not happy with the impey because of following reasons Impey was appointed as the Supreme Court judge to monitor the Company affairs in India. But in India Impey stated to work as the Judge of Sardar Diwani Adalat, accepting this violated the Regulation Act. Because of other job they believed that the Impey would not do the Justice with the job of Supreme Court, because of all above reasons on 3rd May 1782 in England House of Commons adopted a resolution requesting the Crown King to recall Impey to answer the charge of having accepted an officer and violating the Regulation Act. After this Impey left India on 3rd December 1782. From the Impey appointment one should learn that whatever post or job may be the concern person must be studied in the profession.

Regarding Criminal Justice System Hasting took following Steps –

Machinery was created for the purpose of arresting Criminal and bringing them before the Fouzdari Adalat for the trial. This system never existed in India before this a new department office of the remembrance was created at Calcutta to keep watch on the functioning of Criminal Adalats. The department was to work under the Governor General. The head of the department was known as Remembrance of Criminal Courts. All Criminal Courts were required to send periodical reports to this department. Everything was done as per the Muslims Criminal Law and Hastings was not happy with he tried his best but Company heads did not accept his views because of this Criminal Justice System, every one made using corrupt ways.

Merits –

1) The personal laws of Hindus and Muslims were safe guarded.
2) District was selected as a unit of the administration of justice and collection of the revenue.
3) The jurisdiction of the Diwani and Faujdari Adalats were clearly defined.
4) The judges of these Courts were Englishmen and they did not have the knowledge of the personal laws of Hindus and Muslims, but this defect removed out to the large extent of appointing native law officers.
5) The commission basis was replaced by the court-fee which was to be deposited with the Government and not with Judges. This changes was made so that Judges ceased to have any personal interest in a particular case. Thus the change was made to promote impartial and fair justice.

Demerits –

1) **Less number of courts –**

The head farmers were given power to decide petty cases up to Rs. 10/- in fact it was necessary to have more subordinate courts keeping in view the population and the population and the area of each district.

2) **Concentration of Powers –**
Administrative, Tax collection and Judicial in the hands of the Collectors. The Collectors was the Civil Judge as well as Supervisor of the Criminal Courts. It was impossible for the collectors to devote time and energy to regulate all these affairs.

Judicial Reforms of Lord Cornwallis

Lord Cornwallis succeeded Warren Hastings in 1786. The Governor Generalship of Lord Cornwallis extended from 1786 to 1793. This period constitutes a very remarkable and a highly creative period in Indian Legal History. He was Commander-in-Chief as well as Governor General. Lord Cornwallis brought reforms in the revenue, military, civil and criminal judicial system in India in his tenure. Lord Cornwallis introduced the concept[t of administration according to law for the first time in India. After his arrival in India, he found that the whole system was complicated, illogical and wasteful. He reorganized the judicial system, both civil and criminal, in Bengal, Bihar and Orissa. He was successful to a great extent in checking corruption in the courts which was rampant in those days. Lord Cornwallis introduced the reforms in the judicial system in three instalments – first in 1787, secondly in 1790 and thirdly in 1793.

The Judicial Plan of 1787 of Lord Cornwallis

During the tenure of Warren Hasting's, the judicial the revenue functions were separated by vesting them in distinct functionaries. The Directors of the Company demanded economy, simplification and purification and as an essential part of these ideas the merger of revenue and judicial functions. The Court of Directors directed Cornvellis to vest in one person the revenue, judicial and managerial functions. This scheme was introduced through two regulations – one dealt with revenue administration and was passed on the 8th June 1787, the other dealt with the administration of justice and was enacted on June 27, 1787.

The Salient features of Regulations of June 8, & June 27, 1787

1. The number of districts were reduced from 36 to 23. In each district, a Company's English Covenanted Servant was appointed as Collector.
2. The Collector was made in charge of the revenue collection in the district. All revenue cases were decided by the court known as Mal Adalat. It was presided over by the Collector.
3. The Collector was also to act as the Judge in the district Mofussil Diwani Adalat to decide civil cases. The judge was also to decide cases and claims concerning succession and boundaries to zamindaries, talukadaries or other rent free land.
4. The collector was also to act as the Magistrate in the district. In this capacity, he was to arrest the criminals and send them to the nearest Mofussil Nizamt Adalat for their trial. As a Magistrate he was given power to punish offenders who have committed pretty crimes by inflicting punishment not exceeding 15 strokes or imprisonment not exceeding 15 days, in serious cases, the offenders were committed to the Mofussil Nizamat Adalat for trial.
5. The functions of civil justice, powers of Magistrate and function of revenue collection and adjudication of revenue disputes were united in the Collector. However he was to discharge each part of his duties separately according to the department to which it belonged.
6. The salaries of the collectors were increased to seek purity of administration though it was not in favor of economy.
7. Appeals from the decisions of the Collector in his Mal Adalat lay to the Board of Revenue at Calcutta and then to the Governor-General-in-Council. Appeals from the Mofussil diwani Adalat were allowed to be preferred to the Sadar Diwani Adalat if the amount involved was more than Rs.1000/-. A further appeal was allowed to the Kind-in-council(Privy Council) in cases where the subject matter involved was £5000 or more.
8. The Sadar Diwani Adalat, consisting of the governor-General and the members of his Council was assisted by the Chief Quazi, Chief Mufti and two Moulvies who were to expound the

Muslim Law. In cases involving the interpretation of Hindu law, the Sadar Dwani Adalat was assisted by Hindu Pandits.

9. An Office of Registrar, a subordinate officer, was created to assist the Collector, in his administration of civil justice. The Registrar could decide cases up to Rs.200. However the decree passed by him were to be counter-signed by the judge of the Mofussil Diwani Adalat to avoid is carriage of justice.
10. The Birtish nationals residing in the mofussil area beyond Calcutta were subject to the criminal jurisdiction only of the Supreme Court and could not be tried by the Mofussil Fauzdari Adalats. But, it was laid down in 1787 that the Magistrates would have authority on information lodged on oath to apprehend the British subjects. After making an inquiry in the circumstances, if the Magistrate was satisfied that there existed grounds of his trial, he would send the accused to Calcutta for trial. The complainants and their witnesses had also to go the Calcutta to prosecute the accused. If they were poor, their charges of journey were to be met by the government. All other Europeans, who were not British subjects, were placed on the same footing as Indians and their cases were within the jurisdiction of the Mofussil Fauzdari Adalats.

Defects of the Scheme of 1787

The collector was over empowered and united the functions of judicially and executive in one person. It was a retrograde step. The collector was more interested in revenue collection than the administration of justice.

Judicial Plan of 1790 of Lord Cornwallis

The judicial plan of 1787 of Lord Cornwallis mainly introduced reforms in civil and revenue courts. In those days criminal justice was administered as per the Mohammedan Criminal law. It suffered from various defects. By the Judicial Plan of 1790 Cornwallis concentrated his attention to reform criminal courts as he realized that the prevailing system was defective and inefficient. Though under the judicial plan of 1787 the Magistrates (Collectors) were empowered to try and punish petty offences, very limited powers were given to try criminal cases. The result was the majority of the cases were to be decided by the Muslim Law officers (Kazi & Mufti) of Moffussil fauzdari Adalats.The working of these Adalats was wholly unsatisfactory and irregular. The following were the major defects in the administration of criminal justice.

1. The entire criminal administration of justice was in the hands of Nawab,. He had no effective administrative control over the Muslim law officers who were the judges of criminal courts.
2. The salaries given to the persons engaged in the work of rendering criminal justice was quite insufficient to support the dignity of their office. Moreover, salaries were not paid in time.
3. There was no security of the tenure of Muslim law officers. They could be dismissed at any time discretion of Naib Nawab. This face stimulated them to accept bribes to grow richer so that they could live comfortably when dismissed. There was wide prevalent miscarriage of justice..
4. The Moffussil Fausdari Adalats were vested with so much of powers that except death sentence they could impose any punishment. The highest criminal court was Sadar Nizamat Adalat and it functioned from Murshidabad. It proved quite ineffective to exercise control over the lower criminal courts.

5. The Muslim Criminal Law which was applied by the courts was also defective in many ways. Some of its provisions were contrary to the principles of natural justice and in some cases the punishments were quite contrary to the basic tenets of civilization.
6. The numerous robberies, murders and other enormities showed that the administration of criminal justice was in a very deplorable state. These evils resulted from the great delay which occurred in bringing offenders to punishment and the law not being duly enforced. A number of examples are traceable where the Mofussil fauzdari Adalts had either awarded unduly harsh punishments upon persons guilty of less serious crime, or inadequate sentence were passed upon hardened criminals.

Salient Features of Judicial Plan of 1790

According to the regulation passed by the Governor-General-in-Council on 3rd December, 1790 some reforms were introduced in the administration of criminal justice. Cornwallis took strong steps to remove the defects of the Mohammedan Criminal Law and also the defects in the organisation of the Criminal Courts.

In 1790, the orgnisation of criminal court was modified. The arrangement of existing courts was changed. The Mofussil Fauzdari Adalats were abolished. The new plan provided for three types of criminal courts.

1. The Court of District Magistrate

In each district, the Collector was to act as the Magistrate. As a Magistrate, he was to arrest the accused person and hold an inquiry into the circumstances of the crime alleged against him. If the Magistrate found the complaint against the suspect wholly unfounded, he would discharge him. If the offence committed was petty, the Magistrate could himself award the sentence of corporal punishment not exceeding 15 strokes or 15 days imprisonment. If the crime was serious, the accused was to be tried by the Court of Circuit. In some offences he could even release the accused on bail to be tried at the next sitting of the Court of Circuit. But in cases of murder, robbery etc., he could not grant any bail.

2. The Court of Circuit.

The entire Mofussil area was divided into four divisions – Patna, Calcutta, Murshidabad and Dacca. A Court of Circuit consisting of two company's covenanted servants was established in each division to try all criminal cases. It was not a stationary but a moving court it moved from district to district within the division of trying the accused persons. The existing Mofussil Fauzdari Adalats with the Muslim Law Officers were abolished and their place was taken over by the four Courts of Circuit.

The Court of Circuit was to visit each district within its jurisdiction twice a year to dispose of criminal cases awaiting trial. The Indians and European, not being British subjects, were put under the jurisdiction of the Courts of Circuits.

The courts of Circuit were assisted by Muslim law officers such as Quaazi and Muftis. The Quazi and Muftis were to expound the law and propose the Fatwa (decision) on the facts, If it was in conformity with the principles of natural justice and equity, the sentence was passed by the judges of the court. The award of deth sentence was to be referred to the Sadar Nizamat Adlat for confirmation. There could be an appeal from the decision of the Court of Circuit to the Sadar Nizamat Adalat.

3. The Sadar Nizamat Adalat.

The seat of the Sadar Nizamat was at Murshidabad. Under the judicial plan of 1790, the Nawab of divested of all his judicial powers. The Sadar Nizamat Adalat was shifted to Calcutta.

The Governor-General and members of his council presided over the Sadar Nizamat Adalat. They were to be assisted by Muslim law officers i.e., Chief Quazi and to Muftis.

The Sadar Nizamat Adalat was required to conduct its business at least once in a week and a regular record of its proceedings was to be kept. The Sadar Nizamat Adalat was to apply the Mohammedan Criminal law as amended by the governor-General-in-Council.

In order to make the system full proof against corruption, bribery, the Muslim Law Officers were nominated by the Governor-general-in-Council and they could not be removed from their posts except by the governor-general-in-council on the ground of incapacity or misconduct and thus Muslim Law Officers were given a security of tenure.

The new criminal judicial under the scheme of 1790, was inaugurated on January 1, 1791. The office of the Remembrance created during Warren Hasting's regime was now abolished. The first meeting of the Sadar Nizamat Adalat was held on January 10, 1791. Under the new scheme, the governor-general-in-Council for the first time assumed a direct responsibility for the administration of criminal justice in Bengal, Bihar and Orissa. Besides, the salary of the persons working in the criminal courts was increased so that they might not be easily tempted.

Reforms introduced in Mohammedan Criminal Law between 1790 and 1793.

Lord Cornwallis made the following reforms in the Mohammedan Criminal Law and all the Adalats were directed to decide the cases according to the modified Mohammedan Criminal Law.

1. In determining the punishment to be inflicted for the crime of murder, the intention of the party rather than the manner of instrument employed should be taken into account.
2. The punishment of mutilation was abolished and imprisonment and hard labour for 14 years and 7 ears were substituted for the loss of two limbs and that of one limb respectively.
3. The law of evidence was modified so as make provision that religion would not be a bar to be a witness and thus the rule that a Hindu could not be a witness against Mohammedan was abolished.
4. The relations of a murdered person could not grant pardon to the offenders so as to do away with the trial.
5. The Sadar Nizamat Adalat could pass death sentence instead of granting blood money to the heir as provided under Muslim Law.

Defects

In the systems of 1790, the Courts of Circuits were called upon to handle huge amount of work. In 1792, to lighten the burden of the Courts of Circuit, the Magistrates were empowered to hear and determine complaints of petty thefts and to inflict corporal punishment for the offence up to 30 strokes or imprisonment not exceeding one month.

Judicial Scheme (or Plan) of 1793 of Lord Cornwallis

All the regulations framed between 1772 and 1793 were complied in a code which was known s 'Cornwallis Code'. In May, 1793 the Cornwallis code was passed a body of forty eight regulations which held in the field for twenty years.

By the judicial plan of 1793 the following reforms were made.

1. **Reorganisation of Mofussil Diwani Adalat**

By the plan of 1793, in the place of the Collector, a civil servant of the company was appointed as the judge of the Mofussil Diwani Adalat to decide civil and revenue cases. He was empowered to try all suits in respect of succession or right to real or personal property, land, rents and revenues, debts, accounts, partnership, marriage, caste and claims of damage etc. Mal Adalats were abolished and the suits triable by the Mal Adalats were transferred to the Mofussil diwani Adalat. The Collector was to be responsible only for collection of revenue. The power of administering civil justice was taken away from the Collector and given to the Diwani Adalat. The Collectors were deprived of their judicial powers to decide civil cases and revenue cases. The collectors thus became merely administrative officers.

All persons, except the British subjects, were to be amenable to the jurisdiction of Mofussil Diwani Adalat. No order, proceeding or decree was to be made by an adalat except in open court. No judge was to correspond with parties in cases pending before him. A party could make a representation to the adalat in writing either personally or through an authorized vakeel. The rules of procedure to be observed by the Mofussil Diwani Adalat for receiving, trying and deciding cases were made. The period of limitation was fixed at 12 years.

2. **Executive Subjects to Judicial Control**

All executive officers including Collectors were subject to the jurisdiction of the Diwani Adalat personally for all acts done by them in official capacity. Any person who felt aggrieved by the acting of the servants of the company could sue such officers I the ordinary court.

3. **British Subjects and the company's Adalats**

There was an inequitable distinction which existed between the British subjects and the natives of India. The Diwani Adalat was empowered to take cognizance of all the cases instituted by the British subject against the natives, but the native's claim against British subjects were not enforced by the Diwani Adalat. In order to remedy this defect it was provided that the diwani Adalat would have jurisdiction over all British subject s in all disputes of civil nature not exceeding in valur of Rs.500/-. In cases above Rs.500/- the jurisdiction over British subjects continued to vest in the Supreme Court at Calcutta created in 1774 and the company's court were not given any jurisdiction over the British subjects.

4 **Establishment of Provincial Court of Appeal.**

The plan of 1793 provided for establishment of four Provincial Courts of Appeal at Calcutta, Patna, Dacca and Murshidabad. Each Court was to be presided over by three English Judges. At least two judges were required to make a quorum. The Provincial Court of Appeal could entertain original suits or complaints which a Mofussil diwani Adalat refused to receive or proceed. It had jurisdiction to cause such adalat to hear and determine

the same. It had jurisdiction to hear appeals filed from the decision of the Mofussil Diwani Adalat without any pecuniary limit.

The Provincial Courts of Appeal were further authorized to receive the charges of corruption against the subordinate Judges and to forward them to Sadar Diwani Adalat and also to report the cases of negligence and misconduct by the subordinate judges. They were also to enquire into cases referred to them by the Sadar Diwani Adalat or the government for investigation.

The decisions of the Provincial Courts of Appeal were made final in cases in which the subject matter did not exceed one thousand rupees. From these courts a further appeal lay to the Sadar Diwani Adalat in all cases involving over one thousand rupees.

5. **Reorganization of Sadar Diwani Adalat.**

By the plan of 1793, the Sadar Diwani Adalat was re-established at Calcutta consisting of the governor-General and the members of the Supreme Council. It received appeals from Provincial Courts in cases where the subject matter involved exceeded Rs.1000/-. Further appeals lay to the King-in-Council where the amount in dispute exceeded £5000/-. Thus the decision of Sadar Diwani Adalat were final up to £5000/-. This court could deal with complaints of corruption and incompetency against judges of the courts subordinate to it. It was empowered to supervise and control the functions of the lower courts. It could direct the court of Diwani Adalat and Provincial courts of appeal to receive and dispose of any case. It was also empowered to receive appeal from decision of Mofussil Diwani Adalat which might be cognizable in any Provincial court of Appeal in case of Provincial court had omitted or refused to proceed in it.

6. **Munsiff's Courts or Native Commissioners.**

The plan of 1793 provided for the appointment of the Native commissioners who could decide civil suits for sums of money or personal property of a value no exceeding Rs.50/-. These officers were called Munsifs. The number of these commissioners in each district depended upon the bulk of the work to be disposed of. Their selection was made from the landlords and farmers etc., and no other qualifications were prescribed for appointment.

All decisions of Munsifs were appealable to Moffisil Diwani Adalat and then a second appeal cold be taken to the Provincial Court of Appeal.

The Munsiffs were not allowed any salaries and allowances except a commission of one ana (old coin) per rupee (a rupee is equal to 16 anas) upon all the sums litigated before them.

7. **Creation of the Registrar's courts.**

Each Mofussil Diwani Adalat was provided with a Registrar, who was a covenanted servant of the company. The judge of the Mofussil Diwani Adalat could refer to his Registrar suits for money or personal property, subject matter of which did not exceed two hundred rupees. This arrangement was made to relieve the accumulation of arrears of cases in Diwani Adalats. All the case decided by the Registrar required the counter signature of the judge of the Adalat and he was not accorded an independent status to deliver his own judgment.

8. **Abolition of Court Fee.**

By the plan of 1793 the court fees was abolished. The abolition of court fees was a great relief to the poor people. The gates of the Courts were thrown open to all, rich and poor alike.

9. **Security of Tenure of the Indian Law Officers.**

The plan of 1793 provided that the law officers of both the Sadar Adalats and Provincial courts of Appeal and Circuit, and the court of Mofussil diwani Adalat were to be appointed and dismissed by the Governor-General-in-Council. They were to take oath on appointment. They were guaranteed of security of tenure. They could be tried for corruption. The governor-General-in-Council was the final authority to take any action.

10. **Administration of Criminal Justice.**

By the plan of 1793 the following modifications were made in the administration of criminal justice.

1. The Collectors, who acted as Magistrates under the Scheme of 1790, were deprived of their magisterial powers. The judges of the Mofussil Diwani Adalat were made Magistrates with the same powers and functions as were assigned to the collectors.
2. The judicial powers of the Magistrates were redefined. They could punish petty offences by imprisonment up to 15 days or by a fine up to Rs.100/-.
3. The courts of circuit established in 1790 and the Provincial courts of Appeal establishment in 1793 were merged to create four court of appeal and circuit. Each such court was to consist of three English judges. The Court was to break itself into two divisions (the senior judge forming one division and the other two judges forming the other division) which were to go on circuit simultaneously. After completing the same, ll the three judges were to sit to hear appeals from the Mofussil Diwani Adalats.
4. No Changes was made in the constitution of the Sadar Nizamat Adalats.

11. Organization of the Legal Profession –

By the Plan of 1793, the legal profession was regulated. The persons who joined the profession of (vakeels) were required to obtain a certificate (Sanad) after fulfilling the qualifications. Sardar Diwani Adalat was to issue licenses to the pleaders who applied to practice in the law courts. They could be removed from the list of vakeels for proved misbehavior. They were entitled to prescribed fees which were payable to the Court and not directly to the

12. Reforms in the Legislative Methods and Forms –

The Regulation of 1793 provided that every regulation to be passed in future must in preamble stating the reason for its enactment. It was further provided that all the regulation passed in a year to be numbered. They had to be printed and bound up in volume. Provisions were made to send them to law courts.

Comments on the Plan of 1793 of Lord Cornwallis –

The judicial reforms under the plan were the greatest contribution in the field of legal system of India and it forms the high water mark in the legal system of India.

Merits of the Plan of 1793 –

1) The separation between the judicial and revenue functions was maintained.
2) The separation between the judiciary and the executive was maintained to some experts.
3) The principle of the judicial control of the executive authority was applied.
4) Checks and balances were inserted in legal machinery to arrest the practices of corruption.
5) The organization of the Courts was improved.
6) Provincial Courts of Appeal were established for first appeal.
7) The native law officers were provided security of tenure.
8) Legal profession, for the first time, was organized in India.
9) Court – fee was abolished.
10) Subordinate Judicial Agencies were established to deal with petty cases through Munsif.
11) British subjects were equalized to natives in jurisdiction of the Civil Courts.
12) An elaborate procedure for the Diwani Adalats to follow was prescribed.
13) Provision to introduce uniformity in the form of regulations made by the Government for good feature of this plan.

Demerits –

1) The judicial arrangements of 1793 were expected to cost an additional sum of four lacks rupees to the Company.
2) A conspicuous defect in the scheme of 1793 was the exclusion of the Indians from any effective share in public legal administration.
3) The abolition of the court fee resulted in a great increase in the litigation.
4) The appointment of English judges only led to the failure of administration of justice on account of their ignorance of the customs, traditions and language of the country.
5) An anxiety to make the system perfect resulted in making it complicated and encumbered.
6) The scheme did not allow the Munsiffs any salary except a petty commission on the value of the suits and this led naturally to bribery and corruption in Munsiffs courts.

Conclusion –

It is said that the organization of judicial administration initiated by Warren Hastings was completed by Lord Cornwallis.

IMPORTANCE OF CHARTER ACT, 1793 –

The Charter Act 1793 was the first in the series of Charter Acts. The East India Company was granted to monopoly trade license in 1773 for 20 years. The period of monopoly expired on 1793. The Court of Directors applied to the Parliament for the renewal of their Charter. A new bill was introduced in the House of Commons. The bill was passed without any difficult and it is known as the Charter Act of 1793.

Main Provision of the Charter Act, 1793-

1) The Company's commercial monopoly in the East was renewed for 20 years, with the important provision that private individuals would be allowed to trade to the extent of 3,000 tons of shipping.
2) The members of the Board of Control and their staff were to be paid out of Indian revenues.

3) The Governor- General of Bengal and the Governor of Madras and Bombay Presidencies were to have only three members of these Councils. These members were required to be the persons who had resided in India for 12 years at the time of their appointment.
4) The Commander – in – Chief ceases to be a member of the Governor – General Council unless he was specially appointed a member by the directors.
5) The Governor- General and the Governors were empowered to exercise their veto ion case affecting in any way the safety, tranquility or interest of British possession in India.
6) The Governor-General – in Council was to have full power and authority to superintendent, direct and control the presidencies.
7) The Governor-General, Governors, the Commander-in-Chief and a few other high officials could not go out of India on leave so long as the held the office.
8) The Governor-General and Council were authorized to appoint Justice of peace in any Presidency.
9) The Admiralty jurisdiction of the Calcutta Supreme Court was extended to the high seas.
10) The Act reiterated that the policy of non-intervention enunciated by the Pitt's India Act was to be followed in India, and schemes of conquest and extension were contrary to the wish, honour and policy of the nation.
11) Receiving of gifts by servants of the company was to be considered a misdemeanor.
12) The civil servants of the company were to be graded in ranks according to seniority of service and promotion to a higher post was to depend upon the length of one's service. No post with pay of over pond 500 a year was to be awarded to any person except covenanted servants of the company.
13) The sale of liquor was made subject to the grant of a license and power was given to the Governor-General to levy a sanitary tax in the presidency towns.

The Act was essentially a consolidating measure and its attention struck at points of details. The Act merely re-enacted many of the provision of the previous Acts and extended their application.

Lord William Bentinck

Lord William Bentinck became the Governor- General of India in July, 1828 and held that office upto till March, 1835. During this period he made several reforms in the judicial administration which in many respects were original and many of the institution created by him forms the basis of our present judicial system.

Creation of a Sadar Adalat at Allahabad

So far there was only one Sadar Adalat at Calcutta. People had to travel long distance to seek justice from that court. In those days of meagre means of communication it was very difficult for the people to travel such a long distance from Agra or from Allahabad. Therefore, in many cases people instead of going to the Adalat preferred to suffer injustice. It was necessary that a Sadar Adalat should be created in those far situated place which had now come under the jurisdiction of the Company.

Reforms in Criminal Judiciary

In the administration of criminal justice Bentinck made farreaching changes which may be discussed as follow-

i. Abolition of Circuit Court

1. The Circuit Court which was the main court of criminal jurisdication was suffering from many defects, the most outstanding of these defect were that court had heavy work load and therefore , the arrears went on piling and the justice was delayed.
2. In many cases reference was to be made to the Sadar Nizamat Adalat which did not entertain the matter for years and the accused had to wait sor long in the jail for their turn.
3. The number of Circuit Court was very limited with large territorial jurisdiction. They could not easily travel the entire territory to hold the circuit at different districts and sometimes the court could not arrive on time to hear the pending cases.
4. The territory being large and the turn of the Court being hardly twice a year, these Courts did not understand the nature of the people and the local circumstance and therefore, many times innocent people were punished while the real culprits were set free. It was necessary to device a new system replacing these court by the Court of Commissioner.

ii. Creation of the Court of Commissioner

Regulation 1 of 1829 which replaced the Circuit Court by the Court of Commissioner also provided for the appointment of Commissioner. The Circuit commissioner was called as the Commissioner of Revenue and Circuit and had the power of superintendence and control over the Magistrates, police,Collector and other revenue officers. The entire area was divided into divisions and for each division a Commissioner was appointed. The Commissioner was subject to the control of the Sadar Nizamat Adalat in his judicial functions and to the Board of revenue in his revenue function Apart from exercising the powers of the Circuits Court inthe like manner as those courts did, the Commissioners were also authorised to hear appeals against the decision of the Magistrates and the Joint Magistrates. The decision of the Commissioner in the appeal was final and there was no further appeals or revision in the Sadar Nizamat Adalat.

iii. Creation of the Court of District and Sessions Judge- Regulation VII of 1831 authorised the government to invest the judges of the District Diwani Adalat with the duties of the Sessions. As the

judges had to meet in session (generally 4 times in a year) they were called as Sessions Judges. During the time in which they did not conduct the criminal work they did not conduct the criminal work they were called as District Judges. The Sessions Judges tried those cases which were committed to them by the Magistrates.

iv. Creation of Collector- Magistrates- Lord Hastings under his scheme of 1821 authorised the government to confer upon the Collectors Magisterial powers but that authority was not actually exercised during the time of Hastings. However, during the time of Bentinck that provision was fully utilised and the Collectors were authorised to exercise magisterial function and thus the institution of Collector- Magistrates was created.

v. Increased participation of Indians- The participation of Indians was increased in the criminal administration of justice by Lord Bentinck through a Regulation of 1831, which authorised the Magistrates to refer any criminal case to Sadar Ameen or Prinicipal Sadar Ameen for investigation. The powers of these Indian Officers were declared in 1832 and they could award punishment upto a period of one month along with hard labour and corporal punishment not exceeding, 30 Rattans.

Reforms in Civil Judicature

More important reforms were made by Bentick in administration of civil justice than those made in the administration of criminal justice.

(i) **Enhancement in the powers of the Munsifs and Sadar Ameens-** The number of Munsifs and Sadar Ameens employed in the civil judicature was increased by Bentinck to a great extent by specifying the local jurisdiction of those officers. By Regulation V of 1813 the jurisdiction of Munsifs was raised to Rs. 300 in all matters whether they related to money , personal property or real property. The jurisdiction of Sadar Ameen was extended upto the value of Rs. 1000 in cases referred to him by the District Diwani Adalat. These cases could relate to any matter whether of money or personal property.

(ii) **Court of Principal Sadar Ameen-** A court of Principal Sadar Ameen with a native officer was created. Principal Sadar Ameen was to be appointed by the Governor- General-in – Council and was given powers to decide cases of civil nature of the value of Rs. 1000 to Rs. 5000 if referred to him by the District Diwani Adalat. He was authorised to hear appeals against the decisions of the Munsifs and Sadar Ameens if those appeals were referred to him by the Diwani Adalat after obtaining the permission of the Sadar Diwani Adalat. Appeals against the decisions of the Principal Sadar Ameen were heard by the Diwani Adalat and in special cases by the Sadar Diwani Adalat.

(iii) **Judicial powers of the Registrar abolished-** The Registrar was deprived of all the judicial powers which he was exercising so far. His powers were transferred to Sadar Ameen and Principal Sadar Ameen.

(iv) **Abolition of Provincial Court of Appeals and enhancement of powers of the Diwani Adalat-** The Diwani Adalat was given an unlimited jurisdiction to hear civil cases of any amount. By Regulation II of 1833, the Governor-General-in-Council was specifically authorised to abolish all the Provincial Court of Appeals which were so abolished in that year. Regulation VIIof the same year authorised the Governor-General- in –Council to appoint additional Judges to help District Judge in his civil work with the same powers of deciding cases as the District Judge.

(v) **Introduction of Jury System-** The jury could be of three types, i.e., either a case could be referred to certain prominent members of the locality who gave their report after an enquiry

of the dispute or he could take the help of two persons as assessors who had to hear evidence with the judge and give their separate reports on the facts or he could select certain prominent oersons of the area to work as jurors.

Reforms in Revenue Matters-

Regulation VIII of 1831 changed the position and the Collector was authorised to entertain and try summarily all claims connected with arrears of rent or their exactions. He was authorised to execute all the orders and decrees passed by him. The Diwani Adalat was deprived of all the powers in these subjects except that if could revise the judgement of the Collector if a fresh regular suit was filed before it.The revising power was also given to the Principal Sadar Ameen, Sadar Ameen and Munsif according to their pecuniary jurisdiction. Thus, a power was granted to these native officers to change the decision of the Collector.

This Regulation he eased problem of arrears and delay in the Diwani Adalat, but was a retrograde step as it abrogated the scheme of Lord Cornwallis which was based on separation of the executive and the judiciary.

Introduction of Privy Council

If we overview the history of Indian Legal System, it clearly reveals that the Indian Legal System is more or less based on the English Legal System. In fact, the systematic development of Indian judicial institutions, judicial principles, laws etc. has occurred during British regime itself. Besides this, the British regime in India has also developed a hierarchical judicial system in India. Accordingly, the highest judicial authority was conferred on a body of jurists, popularly called as 'Privy Council'. It has played a significant role in shaping the present legal system in India. The same is discussed as under.

Origin and establishment of Privy Council:

As it is an accepted fact that, every political system develops for itself a certain sort of legislative, executive and the judicial machinery for its smooth working and administration. Establishment of Privy Council was with the same objective. The Privy Council was nothing but the judicial body, which heard appeals from various courts of the British colonies including India.

The origin of Privy Council can be traced back to the Norman Period of English. At the beginning of 11th century, the Normans introduced a Central Government in England for controlling their executive, legislative as well as judicial Departments. There was a Supreme Federal Council of Normans. It was known as 'Curia' and it acted as the agency of Normans to rule England. Through it the whole administration in England was controlled. However, gradually with the passage of time, Curia gets divided into 'Curia Regis' and 'Magnum Concillium'. Out of them, Magnum Concillium was to deal with executive matters whereas Curia Regis performs judicial functions.

The Curia Regis was a small body consisting of high officials of the State, members of the Royal household and certain clerks chosen by the Crown itself. Their duty was to advice the King in matters of legislation and administration and to deliver a justice. In fact, the Curia Regis acted as a final Appellate Court for England and English Empire. Gradually, the Curia Regis came to be considered as the advisory body of the King performing most of the vital functions in the field of judicial administration. Finally, during the regime of Henry II, there was a tremendous increase in the Judicial Functions of Curia Regis and it lead to the formation of two different Common Law Courts in England. They are:

1. King-in-Parliament i.e. Court of House of Lords

2. King-in-Counsel i.e. Court of Privy Council.

The former became the highest Court of Appeal for the Courts in England while the later acted as the highest Court of Appeal for all British Possessions and Settlements beyond the seas. In this way, the Privy Council was established during the middle of 16th century. It thus acted as the advisory body of the King with regard to the affairs of the State. Headquarter of the Privy Council was at Landon and its powers were implemented through the means of royal proclamations, orders, instructions etc.

Composition of Privy Council:

As far as India is considered, the Privy Council acted as an appellate body since 1726 with the establishment of Mayor's Court in India. Earlier, the Privy Council used to do its work by means of a system of committees and sub-committees. However, the committees did not have permanent existence and membership and mostly members were the persons with little judicial experience. Naturally it affected the administration of justice. In 1828, Lord Bourgham criticized such a constitution of Privy Council keeping in view the extent and importance of the appellate jurisdiction of Privy Council. Subsequently, in 1830 he became the Lord Chancellor and during his regime, the British Parliament enacted the Judicial Committee Act, 1833 in order to reform the constitution of Privy Council. In this way, officially the Privy Council was created on 14th Aug. 1833 by the Act of the Parliament. The Act empowered the Privy Council to hear appeals from the courts in British Colonies as per the provisions of the Act. Accordingly under this Act, the quorum of judicial committee of Privy Council was fixed to be four. It composed of Lord President, Lord Chancellor and other Chancellors holding judicial offices. This quorum was reduced to three in 1843. The recommendations to the Crown were given by the majority of quorum. Thereafter, by means of the Appelate Jurisduction Act, 1908 this membership of the judicial committee was extended. It also empowered His majesty to appoint certain members not exceeding two. These were nothing but the judges of High Court in British India. Thus some of the members of the Privy Council were the persons versed in Indian Laws.

Appeals from Courts in India to the Privy Council:

This can be discussed under following sub-headings.

a. Charters of 1726 and 1753:

In the Indian Legal History, the Charter of 1726 granted the right to appeal from the Courts in India to Privy Council. The said Charter established three Mayor's Courts at Calcutta, Madras and Bombay. The provision was made as to first appeal from the decisions of Mayor's Court to the Governor-in-Council in respective provinces and the second appeal from to the Privy Council in England. Where as the Charter of 1757, which re-established the Mayor's Courts reaffirmed the said provisions of Appeal to Privy Council from Mayor's Courts.

b. The Regulating Act, 1773:

This Act empowered the Crown to issue a Charter for establishment of Supreme Court at Calcutta. Thus the Charter of 1774 was issued by the Crown to establish a Supreme Court at Calcutta and it abolished the respective Mayor's Court. Section 30 of this Charter granted a right to appeal from the judgments of Supreme Court to Privy Council in Civil matters if following two conditions were followed;

i) Where the amount involved exceed 1000 pagodas

ii) Where the appeal is filled within six month from the date of decision.

In the same way, the Act of 1797 replaced the Mayor's Court at Madras and Bombay with the Recorders Court and provided for direct appeals from these Courts to the Privy Council. Thus the right to appeal from King's Court to Privy Council was well recognized. Besides this, there were Company's Court i.e. Sadar Diwani Adalat and Sadar Nizamat Adalat. They also

recognized the right to appeal to the Privy Council from their decisions. Accordingly the Act of Settlements, 1781 provided for right to appeal from Sadar Diwani Adalat at Calcutta in Civil matters.

c. Appeals to Privy Council from High Courts:

Under the Indian High Courts Act, 1861 the high Courts were established at three Provinces. It was the amalgamation of King's Courts and Company's Courts. This Act provided for the right to appeal from High Courts to Privy Council from all of its judgments except in Criminal matters. In addition to this, there was a provision of Special leave to Appeal in certain cases to be so certified by the High Courts.

d. Appeals from Federal Court in India to Privy Council:

The Government of India Act, 1935 provided for the establishment of Federal Court in India. The Federal Court was given exclusive original jurisdiction to decide disputes between the Center and constituent Units. The provision was made for filing of appeals from High Courts to the Federal Court and from Federal Court to the Privy Council. The Federal Court also had jurisdiction to grant Special Leave to Appeal and for such appeals a certificate of the High Court was essential.

e. Abolition of jurisdiction of Privy Council:

In 1933, a white paper was issued by the British Government for establishment of the Supreme Court in India so as to here appeal from Indian high Courts. It was the first step in avoiding the jurisdiction of Privy Council. After Indian independence, the Federal Court Enlargement of Jurisdiction Act, 1948 was passed. This Act enlarged the appellate jurisdiction of Federal Court and also abolished the old system of filing direct appeals from the High Court to the Privy Council with or without Special Leave. Finally in 1949, the Abolition of Privy Council Jurisdiction Act was passed by the Indian Government. This Act accordingly abolished the jurisdiction of Privy Council to entertain new appeals and petitions as well as to dispose of any pending appeals and petitions. It also provided for transfer of all cases filed before Privy Council to the Federal Court in India. All powers of the Privy Council regarding appeals from the High Court were conferred to the Federal Court.

Thereafter with the commencement of the Constitution of India in 1950, the Supreme Court has been established and is serving as the Apex Court for all purposes in India. It hears appeals from all the High Courts and Subordinate Courts. With this the appellate jurisdiction of the Privy Council finally came to an end.

of Role Privy Council:

The Privy Council has contributed a lot in development of Indian Legal System. It served a cause of justice for more than two hundred years for Indian Courts before independence. As far as the judicial institution is concerned, the Privy Council was a unique and unparallel among all the Courts round the world. It set the task of ascertaining the law, formulating legal principles, molding and shaping the substantive laws in India. It also helped in introduction of the concept of 'Rule of Law', on which we have setup the whole philosophy of our 'Democratic Constitution'. Besides the Privy Council also lead to the introduction of Common Law in India, which forms the basis almost all present Indian laws.

The contribution of Privy Council in personal laws like Hindu Law and Muslim Law is also noteworthy. It acted as a channel, through which English legal concepts came to be assimilated with the body and fabric of the Indian law. it always insisted on the maintenance of the highest standards of just and judicial procedure, especially in the field if criminal justice. In this way; the decisions of Privy Council have enriched the Indian jurisprudence in many respects. Its contribution to the statute law, personal laws, and commercial laws is of great importance. Thus during the period of 1726-1949 and specifically after 1833 and onwards, the Privy Council has played a magnificent role in making a unique contribution to Indian laws and the Indian Legal System. The fundamental principles of laws as laid down by the Privy Council are considered as path finder for the Indian Courts still today.

At present also, the Privy Council command a great respect among Indian lawyers, judges as well as Indian public as the highest judicial institution. Some of the principles laid down by the Privy Council are still followed by the Supreme Court of India. The view taken by the Privy Council is binding on the High Courts in India till the Supreme Court has decided otherwise. One of such instance can be given in the form of 'principle of absolute liability' as propounded by the Supreme Court in the historic olieum gas leak case. Thus as a whole, the contribution of Privy Council is considered as remarkable for the development of Indian Legal System and Indian Judicial Administration. It has played a great unifying role in shaping divergent laws in India.

Drawbacks of Privy Council:

In spite this contribution of Privy Council, it suffered from following drawbacks:

1. For long, it was staffed by Englishmen only, having no knowledge of Indian laws.

2. The location of the Privy Council was in England far away for common man in India making it disadvantageous.

3. The subjection to the jurisdiction to foreign judicial institution i.e. the Privy Council was considered as a symbol of slavery.

4. All this put the poor man in India in difficult situations for seeking justice.

Conclusion:

From the above discussion, it reveals that the Privy Council has rendered a meritorious contribution in the development of Indian legal system and judicial institutions. It introduced many fundamental legal principles in Indian legal system. It shaped the judicial institutions in India. As a whole its role is very significant in developing the legal system in India as it exists presently.

Abolition of Privy Council Jurisdiction.

(1) As from the appointed day, the jurisdiction of His Majesty in Council to entertain, and save as hereinafter provided to dispose of appeals and petitions from, or in respect of, any judgment, decree or order of any court or tribunal (other than the Federal Court) within the territory of India, including appeals and petitions in respect of criminal matters, whether such jurisdiction is exercisable by virtue of His Majesty's prerogative or otherwise, shall cease.

(2) The appeals and petitions aforesaid are hereinafter referred to as "Indian appeals" and "Indian petitions" respectively.

UNIT – III

Indian Council Act, 1861

The Act for the Better Government of India in the year 1858 led to the introduction of several significant changes in the Home Government. But these changes had nothing to do with the administrative set up of India. There was a strong feeling that there were sweeping changes in the Constitution of India after the great crisis of 1857-58. Apart from these there were several others reasons, which necessitated the changes of the constitution of India. The charter Act of 1833 had centralized the legislative procedures. The Legislative council (Centre) had the sole authority to legislate and passing decrees and implementing them for whole of the Country. The workings of the Legislative Council set up by the Charter Acts of 1833, were not fulfilled properly. The council had become a sort of debating society or a Parliament on a small scale. It had claimed all the functions and privileges of the representative body. Trying to act as an independent legislature, it did not work properly with the British Government. In such circumstances, after an exchange of views between the British Government and the government of India, the first Council Act was passed in 1861.

The Indian Councils Act of 1861 empowered the governor-general to make rules for more convenient transactions of business in the Council. This power was used by Lord Canning to introduce the portfolio system in the Government of India. Up to that time theoretically it was the rules that the government of India was governments by entire body of the executive council. As a result all the official papers had to be brought to the notice of the members of the council. By the provisions declared by the council Act of 1861, Canning divided the government between the members of the Council. In this way the foundations of the Cabinet government in India were established. It had been declared through this Act, each branch of administration had its spokesman and head in the Government, who was responsible for its administration and defence. Under the new system the daily matters of administration were placed by the member-in-charge. In cases of important matters, the member concerned presented the matters before the Governor General and decided in consultation with him. The decentralization of business undoubtedly made for efficiency but it was not achieved however.

The Indians councils Act of 1861 also introduced reforms in the legislative purpose. For the convenience of legislation, the viceroy's executive council was expanded by the addition of members. It was declared that the additional members should not be less than six and not more than twelve. These members were directly nominated by the governor General, who held their office for tenure of two years. It was made obligatory that not less than half of the members were to the non-official member. The Council Act of 1861 made no statutory provisions made for the admissions of the Indians. However in actuality some of the non-official seats were offered to the natives of high rank. The functions of the Legislative council were declared strictly to be confined only with the legislative affairs. It would have no control over the administration, finance or the right of interpellation.

The Indian councils Act of 1861 restored the legislative powers of making and amending laws to the provinces of Madras and Bombay. However no laws were passed by the provincial councils were to be valid until those receive the assent of the Governor General. Further in certain matters the prior approval of the Governor General was made obligatory. Following the provisions declared by the Councils Act of 1861, legislative council were established in Bengal, the North Western Provinces and the Punjab in the years 1862, 1886 and 1889 etc. Moreover the Governor General was empowered by the Acts of 1861, to issue without the concurrence of the Legislative Council, ordinances, which were not to remain in force for more than six months.
The significance of the Indians Councils Act of 1861 lies in the fact that it laid down the gradual construction and consolidation of the mechanical framework of the government. Due to this Act three separate presidencies were brought into a common system. The legislative and the administrative authority of the Governor-General-in-Council, was asserted over all the provinces and extended to all the inhabitants. By this act the local needs and the growth of the local knowledge were emphasized.

The Act of 1861 vested the legislative authority in the Governments of Bombay and Madras. It also laid the provision for the creation of similar legislative council in other provinces too. As a result it laid the foundation of legislative devolution culminating in the grants of autonomy to the provinces by the Government of India Act, 1935. However it should be noted that by the Council Act of 1861, no attempts were made to demarcate the jurisdiction of the Central and the Local Legislature as in the federal constitution.

However the character of the Legislative Councils established by the Act of 1861 was not fulfilled properly. Moreover the legislative Councils could not function like the true legislatures neither in the composition nor in the function.

The Council Acts of s 1861, in no way established representative government in India on the model of the government prevalent in England. By the Act of 1861, it was declared that in the colonial Representative Assemblies there would be the discussions of the financial matters and taxation. Regarding this Sir Charles Wood, the Secretary of the state, while introducing the Bill made it clear in the unequivocal terms that Her Majesty's Government had no intentions to establish a representative law makings body normally. However the Indian council Act of 1861 led widespread public disaffection and agitation.

Features of the Act of 1861

1) It made a beginning of representative institutions by associating Indians with the law-making process. It thus provided that the viceroy should nominate some Indians as non-official members of his expanded council. In 1862, Lord Canning, the then viceroy, nominated three Indians to his legislative council—the Raja of Banaras, the Maharaja of Patiala and Sir Dinkar Rao.
2) It initiated the process of decentralisation by restoring the legislative powers to the Bombay and Madras Presidencies. It thus reversed the centralising tendency that started from the Regulating of 1773 and reached its climax under the Charter Act of

1833. This policy of legislative devolution resulted in the grant of almost complete internal autonomy to the provinces in 1937.

3) It also provided for the establishment of new legislative councils for Bengal, North-Western Frontier Province (NV/FP) and Punjab, which were established in 1862, 1866 and 1897 respectively.
4) It empowered the Viceroy to make rules and orders for the more convenient transaction of business in the council. It also gave recognition to the 'portfolio' system introduced by Lord Canning in 1859. Under this, a member of the Viceroy's council was made in-charge of one or more departments of the government and was authorised to issue final orders on behalf of the council on matters of his department(s).
5) It empowered the Viceroy to issue ordinances, without the concurrence of the legislative council, during an emergency. The life of such an ordinance was six months.

The Indian Council Act 1892

The Indian Councils Act 1892 was an Act of the Parliament of the United Kingdom that authorized an increase in the size of the various legislative councils in British India. Indian Councils Act 1892 was the beginning of the parliamentary System in India. Before this act was passed, the Indian National Congress had adopted some resolutions in its sessions in 1885 and 1889 and put its demand. One of the demands was: Reforms of the legislative council and adoption of the principle of election in place of nomination. This demand reflected the dissatisfaction of the Indian National Congress over the existing system of governance. The Indian leaders wanted admission of a considerable number of the elected members. They also wanted the creation of similar councils of North western Province and Oudh and also for Punjab.

The Indian leaders also wanted a right to discussion on budget matters. Viceroy Lord Dufferin set up a committee. The committee was given the responsibility to draw a plan for the enlargement of the provincial councils and enhancement of their status. The plan was drawn, but when it was referred to the Secretary of State for India, he did not agree to introduction of the Principle of election.

Following provisions were made in the Act:

The Indian Councils Act 1892 gave the members right to ask questions on Budget or matters of public Interest after giving six days' notice. But no right to ask supplementary questions. The act was 1892 can be said to be a First step towards the beginning of the parliamentary system in India, where the members are authorized to ask questions. At least, they were enabled to indulge in a criticism of the Financial Policy of the Government.

Additional members could be indirectly elected to the Legislative Council. For the very first time, an element of election was sought to be introduced for the first time. The universities, district board, municipalities, zamindars and chambers of commerce were empowered to recommend members to provincial councils. Thus was introduced the principle of representation.

India was divided into provinces for administrative convenience. Bengal, Bombay and Madras were presidencies which had more powers than the provinces.

The Indian Councils act 1892 increased the number of the additional members in case of the council of the governor general to maximum of 16. In case of Bombay and Madras it was 8-20 members, in case of the Bengal it was 20 members and in case of North Western province and Oudh it was 15 members. In 1892, the council consisted of 24 members, only five being where Indians

The British reorganized the Indian Army but it was dominated by the European branch of the army. In addition the maximum age for entry into the Civil Services was gradually reduced from 23 to 19. The princely states were rewarded for their supportive role for the British in

1857 revolt. Their right to adopt heirs could be respected and integrity of their territories granted against future annexation.

Thus British made several changes with the objective of gradually involving Indians in the British administrative structure with the object of preventing any major upsurge from the nationalist front by creating a permanent group of loyalists.

Contrary to the Congress faith in the policy of petition, prayer and protest, the Indian Councils Act did not satisfy the public demand. The congress way of demand was seen as a weakness by the British Government.

It can be stated that this Act was the cautious extension of the Act of 1861. One of the drawbacks of the 1892 Act was that it was impossible for non-official members to express any demands against the official bloc. Even after this Act was passed the Government approved many bills regardless of the fact that the Indian Members strongly opposed them.

Government of India Act, 1909 (Minto-Morley Reforms)

By 1909 the political turmoil and unrest prevailed in India. The Extremists Hindu and Congress activities had forced the Muslims to give a serious thought to their future line of action in order to protect and safeguard their interests as a nation. By now the Muslims had come to realize with firmness that they were a separate nation. The demand for separate electorate by the Simla Deputation and later by the Muslim League was the first step taken into the direction to protect and maintain the separate image of the Muslims.

Minto-Morley Reforms

The British Government had realized the importance of Muslim's anxiety about their future and was convinced that the present constitutional provisions were inadequate to provide safeguards to the Muslims. The Government therefore, decided to introduce new constitutional reforms to dispel Muslim suspicions. The Government made it clear that it was in favour of giving more rights to the Indian people. The Viceroy Lord Minto in accordance with the policy of the Government set to the task of preparing a draft Bill, in collaboration with Lord Morley, the Secretary of State for India, for the introduction of constitutional reforms. The Bill was prepared and presented in the Parliament for approval. The Bill, after approval by the Parliament and Royal Assent, was enforced in 1909 and came to be known as Minto-Morley Reforms of 1909.

Salient Features, Government of India Act 1909

The Act contained the following provisions:

1. Separate Electorate was accepted for minorities.
2. The preparation of separate electoral rolls was ordered.
3. The Legislative Councils were expanded.
4. The authority of the Council was enhanced. The members were given more liberties. Members were allowed to present Resolutions, discuss Budget and put up questions.
5. The Viceroy's Council's membership was fixed at sixty members.
6. The membership of the provinces of Bengal, U.P., Bihar, Bombay, Madras and Orissa was fixed at 50 members whereas the membership of the provinces of Punjab, Burma, and Assam was fixed at 30 members.
7. The Indian were included in the Executive Council of the Viceroy and in the provincial Executive Councils.
8. The local bodies, trade unions and universities were allowed to elect their members.
9. Lt. Governors were appointed in Bengal, Bombay and Madras. These provinces were given right to form their own Councils

Defects of Minto-Morley Reforms

There were some inherent defects in Minto-Morley Reforms due to which the Minto-Morley Scheme could not last very long. These reforms had following defects:

1. The Minto-Morley Reforms did not provide for mode of electing the representatives.
2. The system failed to develop a sense of accountability among the representatives.
3. The voting rights were squeezed which made the electorate too narrow and restricted.
4. The authority given to the elected members of raising questions and criticizing the policies proved useless as the real legislative authority rested with the Government and its nominated persons.
5. The legislative bodies lacked effective control on the Government agencies.
6. The Central Government exercised vast authority in the financial sphere.

Provincial expenditures were controlled by the Central Government which could cut the provincial expenditures at will.

Significance of Minto-Morley Reforms

Following is the importance of Minto-Morley Reforms:

1. The Minto-Morley Reforms gave impetus to the constitutional development in India.
2. These reforms introduced the system of elections for the first time which created a great deal of political awareness among the Indian people.
3. The acceptance of separate electorate for the Muslims enhanced their political importance and significance.

Conclusion

The importance and utility of Minto-Morley Reforms cannot be set aside because of some weaknesses in the scheme. It acceded the Muslims, their much cherished demand, the separate electorate in the provinces where legislative councils existed. The Muslim League performed in a commendable manner by achieving major demands of the Muslims after only two years of its inception. It scored an amazing political triumph within a short time of its political struggle. The separate electorate set the course of Muslim freedom movement which culminated in the shape of Pakistan after a forty years intense struggle. It also gave strength to the Two-Nation Theory which became the basis of Muslim freedom struggle

Government of India Act 1919

Secretary of state, Edwin S.Montage and the viceroy of India Lord Chelmsford wrote an inquiry report regarding participation of Indians and responsible government in India, this report was published in 1918, Report on Indian constitutional Reform.

In line with the government policy contained in Montagu's statement (August 1917), the Government announced further constitutional reforms in July 1918, known as Montagu-Chelmsford or Montford Reforms. The government of India Act 1919 was passed by the British Parliament

The Act embodied the reforms recommended in the report of the Secretary of State for India, Edwin Montagu, and the Viceroy, Lord Chelmsford.

a) The Act covered ten years, from 1919 to 1929.
b) The act was enacted for ten years from 1919 to 1929.
c) The Act provided a dual form of government (a "dyarchy") for provinces.

Matters of administration were first divided between the centre and the provinces and then the provincial subjects were further bifurcated into transferred and reserved subjects. The transferred subjects were to be administered by the governor with the help of ministers responsible to the legislative council composed mainly of elected members.

The Transferred subjects are:

(1) Education, (2) Libraries, (3) Museums, (4) Local Self-Government, (5) Medical Relief, (6) Public Health and Sanitation, (7) Agriculture, (8) Cooperative Societies, (9) Public Works, (10) Veterinary, (11) Fisheries, (12) Excise, (13) Industries, (14) Weights and Measure, (15) Public Entertainment, (16) Religion and Charitable Endowments, etc.

The reserved subjects were to remain the responsibility of the governor and his executive council which was not responsible to the legislature.Governor got the power to override ministers and executive council.

The Reserved Subjects are:

(1) Land Revenue, (2) Famine Relief, (3) Justice, (4) Police, (5) Pensions, (6) Criminal Tribes, (7) Printing Presses, (8) Irrigation and Waterways, (9) Mines, (10) Factories, (11) Electricity, (12) Labour Welfare and Industrial Disputes, (13) Motor Vehicles, (14) Minor Ports, etc.

The Significance of the Act of 1919

World War I was important for India's nationalist movement. Indians of all persuasions overwhelmingly supported Great Britain and the Allied cause during the war. Nearly 800,000 Indian soldiers plus 500,000 noncombatants served in Europe and the Middle East.

Communal relations between Hindus and Muslims took several turns between the passage of the India Councils Act in 1909 and 1919. The reunion of Bengal in 1911 (which canceled its partition into two provinces) pleased the Hindus but antagonized the Muslims. **The All-India Muslim League began to attract younger and bolder leaders, most notably a brilliant lawyer named Mohammad Ali Jinnah (1876–1946).** Similarly Mohandas K. Gandhi (1869–1948) and Jawaharlal Nehru (1889–1967) emerged as leaders of the Indian National Congress. Many in India's Muslim minority became concerned with the ultimate fate of the Muslim Ottoman Empire, which fought in the opposing Central Powers camp. World War I also aroused both the congress and the league to demand significant constitutional reforms from Britain. **In 1916 they concluded a Congress- League Scheme of Reforms, known as the Lucknow Pact**. It made wide-ranging demands for greater self-government, equality of Indians with other races throughout the British Empire and Commonwealth (in response to racial discrimination in South Africa and Canada), and greater opportunities for Indians in the armed forces of India.

In response, the new secretary of state for India, Edwin Montagu, officially announced the British government's commitment to "the gradual development of self-governing institutions with a view to the progressive realization of responsible government in India" in August 1917. He then toured India, met with Indian leaders, and together with Viceroy Lord Chelmsford drafted a Report for Indian Constitutional Reform in 1918, popularly called the Montagu-Chelmsford Report. A modified version of the report was embodied in the Government of India Act of 1919. It introduced partial self-government to India's nine provinces in a system called dyarchy, whereby elected representatives controlled the departments of agriculture, sanitation, education, and so on, while the British-appointed governor and his advisers retained control of finance, the police, prisons, and relief. This was intended as a step toward complete responsible government. The viceroy, however, retained control of the central government, and the role of the mostly elected bicameral legislature remained advisory. The electorate was expanded, and separate electorates (Muslims elected their own representatives) were kept in place, on Muslim insistence.

The Government of India Act was a significant advance in India's freedom movement. Others included a separate Indian delegation to the Paris Peace Conference in 1919, in the same manner as the self-governing dominions (Canada, Australia, New Zealand, and South Africa). India also became a member of the League of Nations. But these advances did not satisfy Indian nationalists, who were inflamed by the continuation of wartime laws that abridged civil freedoms, and acts of peaceful and violent resistance continued. Hindu-Muslim

accord continued during the Khalifat movement, when Indians supported the Ottoman emperor's religious leadership as caliph of Islam. The cooperation collapsed when Mustafa Kemal Atatürk established a republic in Turkey and abolished the caliphate in 1923 and also due to increasing competition between the two communal groups for power in a future independent India.

Effects of the Act:

The effect of government of India Act 1919 –

(1) To introduce the bicameral or two chamber system in the Indian legislative council

(2) To increase the size of the provincial legislative council, to increase number of the elected members in each

(3) To substitute direct for indirect election

(4) To enlarge the electorate

This act applied the principal of communal representation to Muslims, Sikhs, Anglo-Indians, and Indian Christians etc. The Indian legislature council was to be called as the Indian legislature. The Indian legislature consisted of governor general and two chambers, the council of state and the legislative assembly.

The council of state consisted of 60 members nominated or elected under the rules, of whom not more than twenty were to be official members.

Thus council got 33 elected members and 27 nominated by the governor general of whom not more than 20 could of officials.

The legislative assembly consisted of 143 members.

The number of non elected members was 40 of whom 25 were official members and 15 non officials.

The number of elected member was 103.

To pass a law, including financial bills consent of both houses was required.

The power of both houses were same exception was power to vote supply was allowed only to the Legislative assembly.

The duration of council was fixed at 5 and of the assembly at three years.

The governor general got the power to dissolve either house or to extend its existence if necessary.

The members were elected by a process of direct election, in hope that the people will choose people to represent them. Thus Hindus started to elect Hindus and Muslims elected Muslims and also there was communal representation. Therefore, the act of 1919 did not introduce federalism in India. Governor General in council got the power and authority to decide whether a particular subject was central or provincial subject.

UNIT – IV

Government of India Act, 1935

The Government of India Act, 1935 consisted of 321 Sections, 14 Parts and 10 Schedules. The basic features of this Act were, however, provincial autonomy, introduction of partial responsibility at the centre and an All India federation, and all the three were interlinked. As a matter of fact, the Provincial Autonomy came as a second instalment of responsible government in the Provincial sphere by the Act of 1935. It necessitated the introduction of partial responsibility at the centre, making in turn, the ideal of Indian Federation, a practical proposition. The federal structure never came into being, owing partly to popular opposition including that of the Princes, and partly to the outbreak of war. The rest of the Act came into force partly when the electoral provisions began to operate. The main provisions of the Act were as follows:

- **Creation of Two New Provinces**

The Act provided for the creation of two new provinces of Sindh and Orissa. The new provinces together with the NWFP formed the Governor provinces making 11 in all.

- **Introduction of Provincial Autonomy**

In the provinces Dyarchy was abolished. There were no Reserve Subjects and no Executive Council in the provinces. The Council of Ministers were to administer all the provincial subjects except in certain matters like law and orders etc. for which the government had special responsibilities. The ministers were chosen from among the elected members of the provincial legislature and were collectively responsible to it.

- **All India Federation**

The India Act of 1935 proposed to set up All India Federation comprising of the British Indian Provinces and Princely States. The constituent units of the Federation were 11 Governor's provinces, 6 Chief Commissioner's provinces and all those states that agreed to join it. The States were absolutely free to join or not to join the proposed Federation. At the time of joining the Federation the ruler of the state was to execute an *Instrument of Accession* in favour of the Crown. On acceptance of that Instrument, the state was become a unit of the Federation. The ruler was however authorized to extend the functions of the federal authority in respect of his state by executing another instrument in its internal affairs.

- **Division of Federal Subjects**

The scheme of federation and the provincial autonomy necessitated proper division of subjects between the centre and the provinces. The division under the 1919 Act was revised and the 1935 Act contained three lists i.e. Federal, Provincial and Concurrent Legislative lists.

- **Introduction of Dyarchy at the Centre**

The India Act of 1935 introduced Dyarchy at the Centre. The Federal Subjects were divided into two categories, the Reserved and the Transferred. The former included defence, ecclesiastical affairs, external affairs and administration of Tribal Areas. These were to be administered by the Governor General with the help of executive councilors not exceeding three in number. The rest of the subjects were Transferred ones. These were to be administered by the Governor General with the help of a Council of Ministers, the number of which was not to exceed 10. The ministers were responsible to Governor General and the legislature. The Governor General by his special powers and responsibilities could dominate the ministers.

- **Protection of Minorities**

A very significant provision was the safeguards and protective armours for the minorities. It was argued that the minorities needed protection from the dominance of the majority community. But the nationalists knew that the so-called provisions in the Act relating to safeguards were merely a trick to empower the Governor General and the Governors to override the ministers and the legislators.

- **Bicameral Legislature**

The proposed federal legislature was a bicameral body consisting of the Council of States (Upper House) and the Federal Assembly (Lower House). The strength of the Upper House was 260 out of which 104 nominated by the rulers were to represent the Indian States. 6 by the Governor General and 150 were to be elected. The lower House was to consist of 375 members, out of which 250 were to be the representatives of the British India and 125 of the Indian States. The members from the British India were to be indirectly elected who were composed of the members of the Lower Houses of the Provincial Legislatures but were to be nominated by the rulers in case of the Indian States. Its life was 5 years unless dissolved earlier by the Governor General. 6 out of 11 provinces were given bicameral system of legislature. The Act not only enlarged the size of legislature, it also extended the franchise i.e. the number of voters was increased and special seats were allocated to women in legislature.

- **Establishment of a Federal Court**

The India Act of 1935 also provided for the establishment of a Federal Court to adjudicate inter-states disputes and matters concerning the interpretation of the Constitution. It was however, not the final court of appeal. In certain cases, the appeals could be made to the Privy Council in England.

- **Communal and Separate Electorate**

The Act not only retained the separate electorate but also enlarged its scope. The Anglo-Indians and the Indo- Christians were also given separate electorate.

- **Supremacy of the British Parliament**

The supremacy of the British Parliament remained intact under the Government of India Act, 1935. No Indian legislature whether federal or provincial was authorized to modify or amend the Constitution. The British Parliament alone was given the authority to amend it. The Indian legislature could best pray for a constitutional change by submitting a resolution to His Majesty's Government.

- **Burma Separation from India**

Another important feature of the Act was that Burma was separated from India with effect from April 1937. Aden was also transferred from the administrative control of the Government of India to that of the colonial offices. Thus, Aden became a Crown colony.

- **Abolition of the Indian Council of the Secretary of State**

The Government of India Act 1935 abolished the Council of the Secretary of State for India, which was created in 1858. The Secretary of State was to have advisers on its place. With the introduction of the provincial autonomy the control of the Secretary of State over Transferred Subjects greatly diminished. His control, however, remained intact over the powers of Governor General and Governors.

Criticism

The Act was criticised by the Indian Political leaders. Jawaharlal Nehru criticised the Act of 1935 as a "Machine with strong brakes and no engine". He also condemned it as "a new charter of slavery". Pandit Madan Mohan Malviya described it as "shallow and hollow". Jinnah described it as "thoroughly rotten, fundamentally bad and totally unacceptable".

Merits

1. Some provisions of the Government of India Act 1935 had been incorporated in the Constitution of India. Those provisions stand good in the changing circumstances and prove their genuineness still now.
2. The Act was one of the important stages in obtaining Independence to the Country.
3. Federal Court was established by the Act of 1935. The Federal Court contributed a great deal to the establishment of sound federal judiciary in India. It built up great traditions of independence, impartially and integrity which were inherited by its successor, the Supreme Court of India.

4. Now, India is a Union of States, i.e. Federal Country. The principles of Federal-States were adopted in the Act of 1935. The same principles are now enjoyed by us.
5. The Indian Constitution was designed more or less on the pattern introduced by the Government of India Act of 1935.

Demerits

1. Indians were not allowed to administer the Government of India. They were not provided with positions of power.
2. Dyarchy which was introduced in 1919 in Provinces was abolished in the different provinces and introduced at the Centre, due to which bureaucracy prevailed. Still now the effect of bureaucracy is seen in India.
3. "All India Federation" principle failed due to the condition of volition of the Princes as provided in the Act. The rulers of the States were required to sign an "Instrument of Accession". In practice, the Rulers of Indian States never gave their consent, and they did not intend to lose their power over their territory.
4. Communalism influenced the Constitution of India and the Government as well, which couldn't satisfy either the Muslims or the Hindus.
5. The Governor General and Governors were given extraordinary powers. The powers in the hands of the Governor-General made him autocratic.
6. In totality, the Act was based on the mistrust of Indians towards the Crown and the Indians were not satisfied with this system.

Transfer of Power and Indian Independence Act 1947

Indian Independence Act (1947) marked the final stage in the constitutional evolution of the country. Politically it was the final outcome of the freedom struggle of India that had witnessed different strand of political development from 1885 to 1947. It was the goal of all and was finally achieved by enactment of the Act of 1947 after undergoing through various phases of nationalism under the leadership of different nationalist leaders.

Soon after the Mountbatten Plan was accepted by both the Congress and the Muslim League, the British Government prepared a bill for the Independence of India. The Bill was passed by the British Parliament on 18th July 1947 which was famous as the Indian Independence Act 1947.

According to this Act two independent states such as Indian union and Pakistan were to be created in the Indian sub-continent on 15 August, 1947. These newly independent states were to be at liberty to choose whether they would like to be the members of British Commonwealth of Nations or not. (3) The existing Legislative Assemblies were empowered to frame laws concerning their respective states until new constituent assemblies were formed these states. The offices of the Secretary of state for India and his advisers were to be abolished. The Commonwealth Secretary was to be assigned responsibility of maintaining relations with Pakistan and the Indian Union. The title of the British king as 'Emperor of India' was to be abolished.

The Indian Independence Act of 1947, thus, marked the close of the constitutional development of India under the British rule.

In the night of 14th August 1947 a special session of the constituent Assembly was held at Delhi. As the clock struck twelve Dr. Rajendra Prasad, the President of the constituent Assembly, triumphantly announced that the Constituent Assembly of India had assumed power for the governance of India.

Lord Mountbatten was sworn in as the governor general and Pandit Nehru as the first Prime Minister of free India. Mountbatten remained as a mere constitutional figure head whereas Jawaharlal Nehru became the real administrative head of the Government with his council of ministers. On the other hand of the Radcliffe Line Mohammed Ali Jinnah was sworn in as the first Governor General of Pakistan on 14 August 1947.

Soon after Independence Act of 1947 was passed in the British Parliament, Sardar Vallabhbhai Patel, the iron man of India, advised the Indian Princes to join the Indian Union, immediately. There was wide response to the call of Sardar Patel. The Princely States joined India partly on their own initiative and partly after military intervention.

The Constituent Assembly became the Parliament of Indian Dominion immediately after the transfer of power. A Drafting Committee was formed under B.R. Ambedkar on 29 August 1947 to prepare the constitution of India. India was declared a Sovereign Democratic Republic on 26th January 1950 after the completion of constitution.

Salient features of the Indian Independence Act of 1947:

1) The Indian Independence Act, 1947 provided for the creation of two Independent Dominions of India and Pakistan from August 15, 1947.

2) It defined the territories of the two new Dominions and made possible the adjustment of existing boundaries and the accession of other boundaries by consent.

3) It provided for the partition of Bengal, the Punjab and Assam after ascertaining the wishes of their inhabitants. The final fixation of the boundaries was to be done by the Boundary Commission.

4) The Dominion of Pakistan was to have two wings, East Pakistan and West Pakistan. East Pakistan comprised East Bengal and Sylhet district taken out from. Assam. West Pakistan included the N.W.F.P, West Punjab, Sind and Baluchistan.

5) Either of the two Dominions was to have a Governor- General appointed by the king for the purpose of the government the Dominion. The Act also provided that the same person could be appointed Governor-General of both the Dominions.

6) The Legislature of each of the Dominions is free to make laws for that Dominion, including the laws having extraterritorial operation.

7) No Act of British Parliament passed on or after August 15, 1947 was to extend to either of the Dominions.

8) The suzerainty of British Government over the Indian states lapsed and with it, all treaties and agreements Between His Majesty and the rules of Indian states also came to an end. The Indian states would become independent in their political relations with the Governments of the new Dominions.

9) The assent of the Parliament was given for the- omission of the Royal Styles and titles like Emperor of India.

10) The powers of the Legislature of the Dominion would be exercisable in the first instance by the Constituent Assembly of that Dominion.

11) Dominion and provinces and other parts thereof would be governed in accordance with the Government of India Act, 1935 for the interim period.

12) The provisions requiring the Governor-General or any other Governor to act in his discretion or exercise of his individual judgment would cease to have effect as from August 15, 1947.

13) The Governor – General was, however invested with' plenary powers until March 1948 to issue orders for the effective implementation of Indian Independence Act,

1947 and the division of the assets between the two Dominions, and to adopt or modify the Government of India Act, 1935 and to remove any difficulties that might arise during the transitional period.

14) The Act of 1947 provided for the abolition of the office of the Secretary of State for India and his advisers.

15) The two Dominions were given freedom to join or not to join the Commonwealth.

16) The members of "the civil service and the judges of the Federal Court and High Courts appointed before August 15, 1947 would continue to serve in either of two Dominions' and would be entitled to receive all facilities in respect of their remuneration, leave, term, pension etc. as they enjoyed before.

Thus the two independent and sovereign states – India and Pakistan come into existence and the long British rule came to an end. Commenting on the graceful transfer of power Lord Samuel said, "It is an event unique in history a treaty of peace with our word. Rajendra Prasad, President of the Constituent. Assembly of India, spoke these memorable words on the smooth and graceful transfer of power: "Let us gracefully acknowledge that while our achievement is in no small measure due to our own sacrifices, it is also the result of world forces and events last and but no least, it is the consummation and fulfillment of the political traditions and democratic ideals of the British race. The period of Dominion over ends to-day & as relationship with British is henceforth going to rest on a basis of equality of mutual good will.

Modern Judicial System in India

Modern nation-state functions through a set of institutions. Parliament, the judiciary, executive apparatus such as bureaucracy and the police, and the formal structures of union – state relations as well as the electoral system are the set of institutions constituted by the idea of constitutionalism. Their arrangements, dependencies and inter-dependencies are directly shaped by the meta-politico-legal document- i.e., Constitution. The legal system derives its authority from the Constitution and is deeply embedded in the political system; the presence of judiciary substantiates the theory of separation of power wherein the other two organs, viz. legislature and executive stand relatively
apart from it. Parliamentary democracy works on the principle of 'fusion of power,' and in the making of law, there is direct participation of the legislature and the executive, it is the judiciary that remains independent and strong safeguarding the interests of the citizens by not allowing the other organs to go beyond the Constitution. It acts, therefore, as a check on the arbitrariness and unconstitutionality of the legislature and the executive. Judiciary is the final arbiter in interpreting constitutional arrangements. It is in fact the guardian and conscience keeper of the normative values that are 'authoritatively allocated by the state.' The nature of the democracy and
development depends much on how the legal system conducts itself to sustain
the overall socio-economic and political environment.

The Indian Judicial System is one of the oldest legal systems in the world today. It is part of the
inheritance India received from the British after more than 200 years of their Colonial rule, and the same is obvious from the many similarities the Indian legal system shares with the English Legal System. The frame work of the current legal system has been laid down by the Indian Constitution and the judicial system derives its powers from it. The Constitution of India is the supreme law of the country, the fountain source of law in India. It came into effect on 26 January 1950 and is the world's longest written constitution. It not only laid the framework of Indian judicial system, but has also laid out the powers, duties, procedures and structure of the various branches of the Government at the Union and State levels. Moreover, it also has defined the fundamental rights & duties of the people and the directive principles which are the duties of the State. In spite of India adopting the features of a federal system of government, the Constitution has provided for the setting up of a single integrated system of courts to administer both Union and State laws. The
Supreme Court is the apex court of India, followed by the various High Courts at the state level which cater to one or more number of states. Below the High Courts, there are the subordinate courts comprising of the District Courts at the district level and other lower courts

Judiciary- A Conceptual Overview

The judiciary is the branch of government that deals with interpretation of a nation's laws, resolution of legal conflicts, and judgments for violations of the law. The judiciary, also

known as the judicial system, is composed of judges and courts. The judicial system is deliberately kept separate from the nation's legislative body, such as a parliament or congress, which creates or abolishes the nation's laws as part of the political process. Attorneys are specialists who
study the law in order to help clients navigate the judicial system. Legal systems of various kinds have existed since the dawn of civilization. Precedents of the modern judicial system include ancient Greek and Roman law and the law speakers of medieval Scandinavia. English common law established by the Magna Carta is the most direct ancestor of many current legal systems. France's Napoleonic Code was also influential in replacing local customs with a set system of laws and courts. By the 18th century, many countries around the world had developed some form of a judiciary. In many nations, the law is established by a constitution or similar document created
when the nation was founded. The legislative body then creates further laws that are intended to carry the spirit of the constitution into specific situations. For this reason, judges must be extremely well versed in the laws of the nation. Most begin their careers as attorneys before moving on to the judicial bench. The judiciary is best known for its administration of criminal court cases. Anyone caught violating a law must eventually face a judge, who will determine whether the violation occurred, the severity of the offense, and the penalty. Judges are aided in this process by their understanding of the law, their own interpretation of its meaning, and in some cases by a jury or a panel of fellow judges. The majority of court cases, however, involve civil law, such as trademark or copyright violations, bankruptcy, or individual lawsuits.

Formation of Judiciary

After the French Revolution, lawmakers stopped interpretation of law by judges, and the legislature was the only body permitted to interpret the law; this prohibition was later overturned by the Code Napoleon. In civil law jurisdictions at present, judges interpret the law to about the same extent as in common law jurisdictions however it is different than the common law tradition which directly recognizes the limited power to make law. For instance, in France, the jurisprudence constante of the Court of Cassation or the Council of State is equivalent in practice with case law. However, the Louisiana Supreme Court notes the principal difference between the two legal doctrines: a single court decision can provide sufficient foundation for the common law doctrine of stare decisis, however, "a series of adjudicated cases, all in accord, form the basis for jurisprudence constante."

Indian judiciary is a single integrated system of courts for the union as well as the states, which administers both the union and state laws, and at the head of the entire system stands the Supreme Court of India. The development of the judicial system can be traced to the growth of modern-nation states and constitutionalism. During ancient times, the concept of justice was inextricably
linked with religion and was embedded in the ascriptive norms of socially stratified caste groups. Caste panchayats performed the role of judiciary at the local level, which was tied up with the religious laws made by the monarchs. Most of the Kings' courts dispensed justice according to '*dharma*', a set of eternal laws rested upon the individual duty to be performed in four stages of life *(ashrama)* and status of the individual according to his status *(varna)*. The King's power to make laws depended on the religious texts and the King had virtually no power to legislate 'on his own initiative and pleasure'. Ancient state laws were largely customary laws and any deviation from it or contradiction from *dharma* was rejected by the community. In medieval times, the dictum 'King can do no wrong' was applied and the King

arrogated to himself an important role in administering justice. He became the apostle of justice and so the highest judge in the kingdom. Perhaps, the theory of institutionalism guided justice, manifesting gross arbitrariness and authoritarianism

Modern Judiciary in India

With the advent of the British colonial administration, India witnessed a judicial system introduced on the basis of Anglo-Saxon jurisprudence. The Royal Charter of Charles II of the year 1661 gave the Governor and Council the power to adjudicate both civil and criminal cases according to the laws of England. However, the Regulating Act of 1773 established for the first time the
Supreme Court of India in Calcutta, consisting of the Chief Justice and three judges (later reduced to two) appointed by the Crown acting as King's court and not East India Company's court. Later, Supreme Courts were established in Madras and Bombay. The Court held jurisdiction over "His Majesty's subjects". In this period the judicial system had two distinct systems of courts, the English system of Royal Courts, which followed the English law and procedure in the presidencies and the Indian system of Adalat courts, which followed the Regulation laws and Personal laws in the provinces. Under the High Court Act of 1861, these two systems were merged, replacing the
Supreme Courts and the native courts (Sadr Dewani Adalat and Sadr Nizamat Adalat) in the presidency towns of Calcutta, Bombay and Madras with High Courts. However, the highest court of appeal was the judicial committee of the Privy Council. British efforts were made to develop the Indian legal system as a unified court system. Indians had neither laws nor courts of their own, and
both the courts and laws had been designed to meet the needs of the colonial power. The Government of India Act of 1935 set up the Federal Court of India to act as an intermediate appellant between High courts and the Privy Council in regard to matters involving the interpretation of the Indian Constitution. It was not to 'pronounce any judgment other than a declaratory judgment' which meant that it could declare what the law was but did not have authority to exact compliance with its decisions.

The Federal Court's power of 'judicial review' was largely a paper work and therefore a body with very limited power. Despite the restrictions placed on it, the Federal Court continued to function till 26th January 1950, when independent India's Constitution came into force. In the meantime, the Constituent Assembly became busy drafting the basic framework of the legal system and judiciary

Structure of Judiciary

Under our Constitution there is a single integrated system of courts for the Union as well as the States, which administer both union and state laws, and at the head of the system stands the Supreme Court of India. Below the Supreme Court are the High Courts of different states and under each high court there are 'subordinate courts', i.e., courts subordinate to and under the control of the High Courts.

Judiciary Structure in India

- Supreme Court of India
- High Court (in each of the states)
- District & Session Judges' Court (In Districts)

• Subordinate Judges' Court (Civil)
• Munsiffs' Courts
• Nyaya Panchayats
• Provincial small cause court
• Court of Session (Criminal)
• Subordinate Magistrates' Courts
• Judicial Magistrates
• Executive Magistrates
• Panchayat Adalts
• Metropolitan Magistrate's Court (In Metropolitan areas)
• City Civil and Session Courts Presidency small cause court

India has a quasi-federal structure with 29 States further sub-divided into about 601 administrative Districts. The Judicial system however has a unified structure. The Supreme Court, the High Courts and the lower Courts constitute a single Judiciary. Broadly there is a three - tier division.
Each District has a District Court and each State a High Court. The Supreme Court of India is the Apex Court. Each State has its own laws constituting Courts subordinate to the District Courts. Besides, a number of judicial Tribunals have been set up in specialized areas. The significant Tribunals are:

- Company Law Board;
- Monopolistic and Restrictive Trade Practices Commission;
- Securities Appellate Tribunal;
- Consumer Protection Forum;
- Board for Industrial and Financial Reconstruction;
- Customs and Excise Control Tribunal;

These Tribunals function under the supervisory jurisdiction of the High Court where they may be situated. The Indian judiciary has a reputation of being independent and non-partisan. Judges are not appointed on political considerations. They enjoy a high standing in society. India has a unified all India Bar and an advocate enrolled with any State Bar Council can practice and appear in any court of the land including the Supreme Court of India. However, for doing any acting work in the Supreme Court a qualifying examination (called an 'Advocate on Record'exam) needs to be cleared. Foreign lawyers are not permitted to appear in Courts (unless qualified), though they can appear in arbitrations.

Practice and Procedure:

The influence of the British Judicial System continues in significant aspects. The official language for Court proceedings in the High Court & the Supreme Court is English. Lawyers don a gown and a band as part of their uniform and Judges are addressed as "My Lord". The procedural law of the land as well as most commercial and corporate laws is modeled on English laws. English case law is often referred to and relied upon both by lawyers and judges. As in England, a certain class of litigation lawyers is designated as "Senior Advocates"

The Supreme Court

The Supreme Court is the highest court of law in India. It has appellate jurisdiction over the high court's and is the highest tribunal of the land. The law declared by the Supreme Court is binding on all small courts within the territory of India. It has the final authority to interpret the Constitution. Thus, independence and integrity, the powers and functions and judicial review are the issues of utmost importance concerned with the Supreme Court.

Composition and Appointments

The Supreme Court consists of the Chief Justice of India and not more than twenty- five other judges. There can be ad hoc judges for a temporary period due to lack of quorum of the permanent judges. However, Parliament has the power to make laws regulating the constitution, organization, jurisdiction and powers of the Supreme Court. The Constitution makes it clear that the President shall appoint the Chief Justice of India after consultation with such judges of the Supreme Court and of High Courts as he may deem necessary. And in the case of the appointment of other judges of the Supreme Court, consultation with the Chief Justice, in addition to judges is obligatory.

A person shall not be qualified for appointment as a judge of the Supreme Court
unless he is:
a) a citizen of India, and b) either
i) a distinguished jurist; or
ii) has been a High Court judge for at least 5 years, or
iii) has been an Advocate of a High Court for at least 10 years.

Once appointed, a judge holds office until he attains 65 years of age. He may resign his office by writing addressed to the President or he may be removed by the President upon an address to that effect being passed by a special majority of each House of the Parliament on grounds of 'proved misbehavior' and 'incapacity'. The salaries and allowances of the judges are fixed high in order to secure their independence, efficiency and impartiality. The Constitution also provides that the
salaries of the judges cannot be changed to their disadvantage, except in times of a financial emergency. The administrative expenses of the Supreme Court, the salaries, allowances, etc, of the judges are charged on the Consolidated Fund of India.

Power of the Supreme Court

The Supreme Court has vast jurisdiction and its position is strengthened by the fact that it acts as a court of appeal, as a guardian of the Constitution and as a reviewer of its own judgments. Article 141 declares that the law laid down by the Supreme Court shall be binding on all courts within the territory of India. Its jurisdiction is divided into four categories:

a) Original Jurisdiction and Writ jurisdiction
Article 131 gives the Supreme Court exclusive and original jurisdiction in a dispute between the Union and a State, or between one State and another, or between group of states and others. It acts, therefore, as a Federal Court, i.e., the parties to the dispute should be units of a federation. No other court in India has the power to entertain such disputes. Supreme Court is the guardian of Fundamental Rights and thus has non-exclusive original jurisdiction as the protector of Fundamental Rights. It has the power to issue writs, such as *Habeas Corpus*, *Quo Warranto*, *Prohibition*, *Certiorari* and *Mandamus*. In addition to issuing these writs, the Supreme Court is empowered to issue appropriate directions and orders to the executive. Article 32 of the

Constitution gives citizens the right to move to the Supreme Court directly for the enforcement of any of the Fundamental Rights enumerated in part III of the Constitution.

b) Advisory Jurisdiction
Article 143 of the Constitution vests the President the power to seek advice regarding any question of law or fact of public importance, or cases belonging to the disputes arising out of pre-constitution treaties and agreements which are excluded from its original jurisdiction.

c) Appellate Jurisdiction
The Supreme Court is the highest court of appeal from all courts. Its appellate jurisdiction may be divided into

i) cases involving interpretation of the Constitution - civil, criminal or otherwise
ii) civil cases, irrespective of any Constitutional question, and
iii) Criminal cases, irrespective of any Constitutional question.

Article 132 provides for an appeal to the Supreme Court by the High Court certification, the Supreme Court may grant special leave to the appeal. Article 133 provides for an appeal in civil cases, and article 134 provides the Supreme Court with appellate jurisdiction in criminal matters. However, the Supreme Court has the special appellate jurisdiction to grant, in its discretion, special leave appeal from any judgment, decree sentence or order in any case or matter passed or made by any court or tribunal.

d) Review Jurisdiction
The Supreme Court has the power to review any judgment pronounced or order made by it. Article 137 provides for review of judgment or orders by the Supreme Court wherein, subject to the provisions of any law made by the Parliament or any rules made under Article 145, the Supreme Court shall have the power to review any judgment pronounced or made by it.

High Courts

There shall be High Court for each state (Article 214), and every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself (Article 215). However, Parliament may, by law, establish a common High Court for two or more states and a Union Territory (Article 231). Every High Court shall consist of a Chief Justice and such other judges as the President may from time to time deem it necessary to appoint. Provisions for additional judges and acting judges being appointed by the President are also given in the Constitution. The President, while appointing the judges shall consult the Chief Justice of India, the Governor of the State and also the Chief Justice of that High Court in the matter of appointment of a judge other than the Chief Justice. A judge of a High Court shall hold office until the age of 62 years. A judge can vacate the seat by resigning, by being appointed a judge of the
Supreme Court or by being transferred to any other High Court by the President. A judge can be removed by the President on grounds of misbehavior or incapacity in the same manner in which a judge of the Supreme Court is removed.

Power of High Courts
The jurisdiction of the High Court of a state is co-terminus with the territorial limits of that state. The original jurisdiction of High court includes the enforcement of the Fundamental

Rights, settlement of disputes relating to the election to the Union and State legislatures and jurisdiction over revenue matters.

Its appellate jurisdiction extends to both civil and criminal matters. On the civil side, an appeal to the High Court is either a first appeal or second appeal. The criminal appellate jurisdiction consists of appeals from the decisions of:

a) a session judge, or an additional session judge where the sentence is of imprisonment exceeding 7 years
b) an assistant session judge, metropolitan Magistrate of other judicial Magistrate in certain certified cases other than 'petty' cases.

The writ jurisdiction of High Court means issuance of writs/orders for the enforcement of Fundamental Rights and also in cases of ordinary legal rights

Subordinate Courts

The hierarchies of courts that lie subordinate to High Courts are referred to as subordinate courts. It is for the state governments to enact for the creation of subordinate courts. The nomenclature of these subordinate courts differs from state to state but broadly there is uniformity in terms of the organizational structure.

Below the High Courts, there are District Courts for each district, and has appellate jurisdiction in the district. Under the district courts, there are the lower courts such as the Additional District Court, Sub Court, Munsiff Magistrate Court, Court of Special Judicial Magistrate of II class, Court of Special Judicial Magistrate of I class, Court of Special Munsiff Magistrate for Factories Act and labour laws, etc.

Below the subordinate courts, at the grass root levels are the Panchayat Courts (Nyaya Panchayat, Gram Panchayat, Panchayat Adalat, etc.). These are, however, not considered as courts under the purview of the criminal courts jurisdiction. District Courts can take cognizance of original matters under special status. The Governor, in consultation with the High Court, makes appointments pertaining to the district courts. Appointment of persons other than the District Judges to the
judicial service of a state is made by the Governor in accordance with the rules made by him in that behalf after consultation with the High Court and the State Public Service Commission. The High Court exercises administrative control over the district courts and the courts subordinate to them, in matters as posting, promotions and granting of leave to all persons belonging to the state judicial service.

Judicial Review and Public Interest Litigation (PIL)

Judicial Review means the power of the judiciary to pronounce upon the Constitutional validity of the acts of public authorities, both executive and legislature. In any democratic society, judicial review is the soul of the system because without it democracy and the rule of law cannot be maintained. Judicial review in India is an integral part of the Constitution and constitutes the 'basic
structure' of the Constitution. The whole law of judicial review has been developed by judges on a case to case basis. Consequently, the right of seeking judicial review depends on the

facts of each individual case; however, there cannot be a review of an abstract proposition of law.

Though 'judicial review' does not find mention in our Constitution, this power has been derived by the judiciary from various provisions. Firstly, judiciary power to interpret the constitution and especially the limits on Fundamental Rights Vis-à-vis Article 13(2) that suggests that any law contravening the Fundamental Rights would be declared void. It is the duty of the Supreme Court to safeguard and protect the Fundamental Rights of people and thus it is invested with the power of judicial review under Article 32 and to interpret the Constitution.

Modern nation-state functions through a set of institutions. Parliament, the judiciary, executive apparatus such as bureaucracy and the police, and the formal structures of union – state relations as well as the electoral system are the set of institutions constituted by the idea of constitutionalism. Their arrangements, dependencies and inter-dependencies are directly shaped by the meta-politico-legal document- i.e., Constitution. The legal system derives its authority from the Constitution and is deeply embedded in the political system; the presence of judiciary substantiates the theory of separation of power wherein the other two organs, viz. legislature and executive stand relatively apart from it. Parliamentary democracy works on the principle of 'fusion of power,' and in the making of law, there is direct participation of the legislature and the executive, it is the judiciary that remains independent and strong safeguarding the interests of the citizens by not allowing the other organs to go beyond the Constitution.

The Role of Judiciary in India

In a democracy, the role of judiciary is crucial. Judiciary is a faithful keeper of the constitutional assurances. An independent and impartial judiciary can make the legal system vibrant. Our Indian judiciary can be regarded as a creative judiciary. Credibility of judicial process ultimately depends on the manner of doing administration of justice. Justice K. Subba Rao explains the function of
the judiciary as thus

- It is a balancing wheel of the federation;
- It keeps equilibrium between fundamental rights and social justice;
- It forms all forms of authorities within the bounds;
- It controls the Administrative Tribunals.

Justice – Social, economic and political is clearly laid down in the preamble as the guiding principle of the constitution. Social justice is the main concept on which our constitution is built. Part III and IV of Indian constitution are significant in the direction of Social Justice and economic development of the citizens. Judiciary can promote social justice through its judgments. In other
sense, they are under an obligation to do so. While applying judicial discretion in adjudication, judiciary should be so cautious. And prime importance should be to promote social justice. Supreme Court had itself suggested in one of the early and landmark case (Bandhu Mukti Morcha v Union of India 1984) I SCC 161, 234) that is a great merit in the court proceedings to decide an issue on the basis of strict legal principle and avoiding carefully the influence of purely emotional appeal. For that alone gives the decision of the court a direction which is certain and unfaltering, and that especial permanence in legal

jurisprudence which makes it a base for the next step forward in the further progress of the law. Indeed, both certainty of substance and certainty of
direction is indispensable requirement in the development of the law and invest it with credibility which commands public confidence in its legitimacy

Conclusion

Overall, Indian legal development since the arrival of the British displays increasing rationalization and professionalization—a trend accentuated in independent India. The law is universal in coverage, technically complex, administered by a sizable group of trained professionals, and applied through a unified hierarchy of agencies. Unlike the pre-British systems, it is designed to enforce local conformity to national standards. Yet the price of complexity and hierarchic unity is to make law remote from popular understanding. The system of legal ideas and institutions is now so complex as to supply ample occasion for slippage and opportunity for manipulation, so that uniformity in doctrine and unity in formal structure coexist with diverse practices that diverge from the prescriptions of the formal law

History of Law Reporting in India

The study of legal history reveals that legal system though not a creation of judges even than it is based on the principles laid down by the judges. The origin of present legal system in India inherited the principles laid down by Privy Council and other superior courts established by the British Empire.
In India, there has been no such development of the art of law reporting and the growth of the authority of precedent as in England. The method of law reporting to preserve judicial decisions and the principle of the authority of precedent has been adopted in this country from England. As in England, a court in this country's bound by the *ratio decidendi* of every case decided by a higher court; but the Supreme Court and the High Courts are not bound by their own decisions. In *Bengal Immunity Company, Ltd. v. State of Bihar* (A.I.R. 1955 S.C. 661), the Supreme Court held that it can depart from a previous decision if it is convinced of its error and its baneful effect on the general interests of the public. The same is the position

in the High Courts also. The History of law reporting in India may be divided into two parts: the first dealing with the early stages of its development (roughly a period 1813-1861), and the second with a more regular course which is said to have commenced with the establishment of Presidency High Courts in 1862.

Early Stages

In 1813 the necessity of establishing the authority of precedent in India was for the first time emphasized in the following words: '.... it should be enacted by a Regulation that from a given period, the judgments of the court shall be considered as precedents binding upon itself and on the inferior courts in similar cases which may arise thereafter. This will have the effect of making the superior courts more cautious and of introducing something like a system for the other courts, the want of which is now very much felt.' It was further emphasized that 'hitherto it has not been much the custom to refer to precedent; and for ought the Judges of the court may know, the same points may have been decided over and over again and perhaps not always the same way. It is obvious that having something like a system established would tend to abridge the labors of the civil courts.' Thus arose the need of the publication of reports of cases involving questions of native law, and also of the publication of other reports, for guidance of the courts themselves as well as the legal practitioners.

Again in 1850 one William Macpherson observed that the practice and doctrines of the civil courts must be deduced, in great measure, from an examination of the decisions at large, both those which have been especially adopted and published as precedents and those which are issued monthly as a record of the ordinary transactions of the Sadar Courts; for all decisions practically tend to show by what principles the court is governed; and they become law, that is to say, they guide men in their private transactions and they regulate the decisions of the courts.

In this context we refer to the collections of reports made during 1813-1861:

Reports of Cases decided by the Crown's Courts

The published collections of reports of Indian Decisions were not many, but they already existed in sufficient numbers to be of the greatest practical utility, and additions were made to them day by day. The decisions of the Privy Council on appeal from India were originally inserted in the reports of Knapp and Moore. Later on, they were published separately under the title 'Indian Cases', and appeared at intervals. There was also a valuable collection of the printed cases decided in appeals, and prepared by Lawford, but it was never published. W. H. Morley included in the Appendix to his Digest of Indian Cases, a valuable series of notes of cases of the Calcutta Supreme Court prepared by Judge Sir Edward Hyde East. The notes contained many important decisions on native law and questions relating to the jurisdiction of the Court.

Reports of cases were given by way of illustration by Sir Francis Macnaghten in his Considerations on the Hindu Law, as current in Bengal, published in 1824. These Reports, from the nature of the work from which they were extracted, were, of course, confined to cases involving questions of Hindu Law. Notes of cases were found in Longueville Clarke's editions of the Rules and Orders of the Calcutta Supreme Court, published in 1829; of the additional Rules and Orders which appeared in the same year; and of the Rules and Orders for 1831-32, published in 1834. These notes of cases were very valuable, many of those in the two latter collections containing the judgments in' full and relating to points of native, law

of great interest. Reports of cases decided by the Calcutta Supreme Court were, published by Bignell in 1831. Only a single number of these Reports appeared. The cases were fully and ably reported.

Reports of Cases decided by the Company's Courts

The first printed Reports of cases decided by the Courts of the Company were published by Sir William Hay Macnaghten, while he was Registrar of the Calcutta Sadar Diwani Adalat. These were the Reports of the cases decided by this Sadar Adalat. A second edition of the first two volumes appeared in 1827, and the Reports were subsequently continued in the same form. Those contained in the first volume were chiefly prepared by Dorin who later became the Judge of the Court. The notes appended to the cases in this volume were entitled to weight as having been written or approved by the Judges who had decided these cases; and those explanatory of intricate points of Hindu Law were most especially valuable as coming from the pen of Henry Colebrooke. The second, third and part of fourth volumes were also published by Sir William Macnaghten. The later cases in the fourth volume were selected and prepared by C. Udney, his successor in the Office of Registrar. The cases contained in the fifth volume were reported by Justice Sutherland. The cases given in the sixth and seventh volumes had no reporter's name affixed, but they were approved by the Court and were believed to have been prepared by the Registrars.

The first collection of the decisions of the Sadar Diwani Adalat at Bombay was the well-known series of Reports by Borradaile, formerly a Judge of the Court and the author of the translation of Mayukha. His work was in two folio volumes and was published at Bombay in 1825. It was full of cases on points of law peculiar to that part of India; these cases were ably reported

In the branch of the criminal judicature, only a few Reports were printed. The first collection that appeared was of the sentences of the Sadar Nizamat Adalat at Calcutta. The first two volumes were prepared by Sir William Macnaghten. There was no reporter's name in the subsequent volumes. In 1851, a monthly series of decisions of the Calcutta Nizamat Adalat was commenced. At Madras a similar issue of Reports of criminal cases decided by the Sadar Faujdari Adalat began in the same year. Marginal abstracts were added in this series

Reporting after 1861

Hitherto law reporting was not regular and systematic. It was only with the establishment of the High Courts in the Presidency Towns in 1862 that regular law reporting commenced. From that time semi- official and private law reports came to be published regularly and systematically. At present there is
official law reporting also. Sir James Stephen, who was the Law Member in the Governor General's Council, recorded a minute to the effect that law reporting should be regarded as a branch of legislation; he accepted the principle that it
was hardly a less important duty of the Government to publish the law enunciated by its tribunals than to promulgate its legislation. On this subject a circular was issued to various local Governments and the High Courts. Later on Mr. Hob house, who succeeded Sir Stephen as the Law Member, became interested in the subject of law reporting and took initiative in the passing of the Law Reports Act in 1875 for the improvement of Law Reports. Its section 3, gave authority only to authorized reports by providing that no court would be bound to

hear cited, or would receive or treat as an authority binding on it, the report of any case decided by any High court, other than a report published under the authority of the Government.

After the passing of this Act, Councils of Law reporting were set up in several High Courts and Reports began to be published under the supervision and authority of the Government. In fact, the Act has proved to be a dead letter. In 1927 a non-official Bill, introduced in the Central Legislature, containing provision to ban the citation of non-official Law reports, met with a strong criticism and opposition and ultimately collapsed. Recently the Law Commission also declared that monopoly of law reporting was not desirable, and suggested that the Act of 1875 should be repealed.
According to the information available in the 14th report of the Law Commission, the official and non- official Law reports, published in this country, are mentioned below.

Non-Official All India Reports.

(1) All India Reporter. (2) Criminal Law Journal

Official Law Reports.

(1) I. L. R., (Indian Law Reports), Allahabad. (2) I. L. R. Andhra Pradesh. (3) I. L. R., Assam. (4) I. L. R. Bombay (5) I. L. R., Calcutta. (6) I. L. R., Cuttack. (7) Jammu & Kashmir Law Reports. (8) I. L. R., Kerala. (9) I. L. R., Madhya Pradesh (taking the place of I. L. R., Nagpur and I. L. R., Madhya Bharat). (10) I. L. R., Madras. (11) I. L. R., Mysore. (12) I. L. R., Patna. (13) I. L. R., Punjab. (14) I. L. R., Rajasthan. (15) Supreme Court Reports.

Non-Official Law Reports.

(1) Allahabad Law Journal. (2) Allahabad Weekly Reporter. (3) Andhra Law Times. (4) Andhra Weekly Reporter. (5) Bihar Law Journal. (6) Bombay Law Reporter. (7) Calcutta Law Journal. (8) Calcutta Weekly Notes. (9) Calcutta Law Times. (10) Jabalpur Law Journal (Gwalior) (previously Madhya Bharat Law Journal). (11) Jabalpur Law Journal (Jabalpur). (12) Karnatak Law Journal. (13) Kerala Law Journal. (14) Kerala Law Times. (15) Madhya Pradesh Cases. (16) Madhya Pradesh Law Journal. (17). Madras Law Journal (Civil). (18) Madras Law Journal (Criminal). (19) Madras Law Weekly. (20) Madras Weekly Notes. (21) Mysore Law Journal. (22) Nagpur Law Journal. (23) Patna Law Reports. (24) Punjab Law Reports. (25) Rajasthan Law Weekly. (26) Supreme Court Appeals. (27) Supreme Court Cases (in Hindi). (28) Supreme Court Journal

Special Law Reports.

(1) Company Cases. (2) Company Cases Supplement. (3) Factories Journal Reports. (4) Income Tax Reports. (5) Labour Appeal Cases. (6) Labour Law Journal. (7) Sales Tax Cases.

Law Commission and Law Reporting

The Law Commission, appointed in 1955, has dealt, in detail, with the question of Law reporting in India and has made certain valuable suggestions for improvement. The Law Commission has omitted to consider the desirability of undertaking the reprinting of old Law Reports. It is submitted that in the interest of administration of justice, it is necessary that this project should be undertaken by either the Government or some private agency under the supervision of the Government.