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HISTORY AND CONSTITUTION

OF THE

COURTS AND LEGISLATIVE AUTHORITIES IN INDIA.

WITH

Calcutta University Question Papers.

FOR B. L. CANDIDATES.

BY, A YAKIL.

Published by

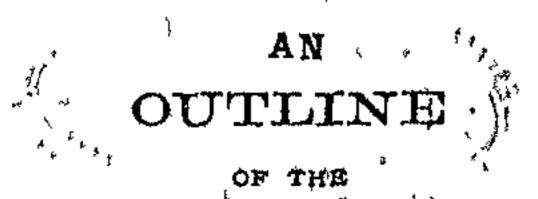
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PRINTED BY DWIJENDRA NATH PARAY, A

AT THE PROPLES PRESS, No. 78, COLLEGE STREET.

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HISTORY AND CONSTITUTION

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AUTHORITIES IN INDIA.

CHAPTER I.

Important Legislative Enactments for British India.

The East India Company.—In 1600 Queen Elizabeth granted a charter incorporating the London East India Company. In 1698 another Company was incorporated under authority of an act of Parliament under the name of the English East India Company. In 1708 the two Companies were united under the award of Lord Godolphin. The Court of Directors was constituted, and the General Court of Proprietors was vested with the chief authority and control over the affairs of the Company

In 1601, 1609 and 1661 in the Company's charter,

power was granted to the Governor and Company to make laws for the good government of the Company and of all its officers, and for the better advancement and continuance of their trade and traffic. They were empowered to put these laws in force and to revoke them at their pleasure. But the laws should be reasonable and not contrary, or repugnant to the laws of the realm. In these charters granted by the Crown, power was given to the Company in a general and indistinct way to administer justice to those who should live under them. In the charter of 1661, power was given to the Governor and Council to judge all persons belonging to the Governor and Company, or that should live under them, in civil and cuminal causes according to the laws of England. In 1683. power was granted to establish a Court of Judicature to consist of one person learned in the civil laws, and two merchants, all to be appointed by the Company. In 1698 the Company were vested with the Government of all their forts, factories, and plantations, the sovereign power being reserved for the Crown.

Mayor's Courts.—After the united Company was established, at the application of its Court of Directors, the Crown in 1726 by Letters Patent, established Mayor's Courts at Madra's, Bombay and Calcutta, each consisting of a Mayor and nine Aldermen, seven of whom with the Mayor were required to be natural born British subjects. They were declared to be Courts of Record, and were empowered to try, hear, and determine all oral suits, actions, and pleas, between party and party, and to grant probates of wills and administration to the effects of intestates.

By ritue of the same LettersPatent, each Local Government consisting of a Government Council, was constituted a Government Court of Record, to which appeals from the decisions of the Mayor's Courts might be made in all causes, involving sams under 1000 paged das. In causes involving sams above that amount, an appeal lay from the Government Court to the King in Council The Government Court was further constituted a Court of Oyer and Terminer, and was authorized and required to hold quarter sessions for the first of all offences, excepting high treason.

Court of Request's —The charter of 1758 re-established Mayor's Courte at Madras, Bombay and Calcutta, with some amen liments, and also established a Court of Request at each of the said places, for the determination of suits not exceeding five Pagodas in value. Both Courts were made subject to a control on the part of the Court of Directors. Suits between natives were directed not to be entertained by the Mayor's Courts upless by consent of parties

The Diwani of Bengal, Behar and Orissa.— In 1765, the Diwani of Bengal, Behar and Orissa, was obtained from the Moghal Emperor Shah Alam. This act is regarded as the acquisition of sovereignty by the English, The collection of revenue in India involved the whole administration of civil justice. The Nexamut or administration of criminal justice remained with the Nawbah of Murshidabad

But the administration for the most part of the ravenues, and still more of civil justice, was conducted through native agency till the year 1772. The country in the neighbourhood of Calcutta, Burdwan, Midanapore, and Chittagong, was under the superintendence of European officers. But the remainder of the provinces was left under the immediate management of two native Dewans, one stationed at Muishedabad and the other at Patna, under the superintendence at their respective head quarters, of a European resident. In 1769, European local supervisors were appointed in subordination to the two residents, and in 1770, two Revenue Councils of control with superior authority were appointed, one at Muishidabad and the other at Patna. Criminal justice was left in the hands of native authorities. Mahommedan criminal law was in force administered by Mahommedan Courts.

In 1771, the Directors declared their resolution to stand forth as Dewan, and by the agency of the Company's servants, to take upon themselves the entire care and management of the revenues.

Dewand and Fouzdari Adawlats.—In 1772, Warren Hastings was transferred from Madias to Bengal, and the office of Naib Dewan was abolished. A committee of circuit was appointed consisting of the Governor and four members of Council. Mofussil Dewani Adawlats superintended by Collectors of revenue, were established in each District. These Courts took cognizance of all disputes, except questions of succession to the Zamindary and Talook-dary property, which were reserved for the decision of the Governor in Council. A Saddar Dewani Adawlat was established, presided over by the President and Council assisted by native officers, which exercised appellate

civil jurisdiction over the Mofussil, Courts in all cases where the disputed, amount exceeded Rs. 500.

Mofussil Fouzdair Adamlats were also established in each District. In these, Mahammedan Judges under the superintendence of Collectors of revenue, sat to hold trials. A Sudder Nizamat was also established at Murshidar bad. It was transferred after a short time to Calcutta, then back again to Murshidabad in 1775, where it remained up to 1790.

The Regulating Act.-A variety of circumstances tended to draw the attention of the English Public to the state of Indian affairs. The general unpopularity of the returned servants of the Company, their wealth and ostentation, attracted attention, and induced the public mind to believe that the sudden oreation of this wealthy class was due to great crimes and oppression. The strong prejudices thus excited, served to strengthen the hands of a few English statesmen, [especially Ddmund Burke], who determined to bring the authority of Parliament into action to restrain the excesses of their countrymen in India, and to secure some measure of protection and good government to the territories they had acquired. A Committee of secrecy of the House of Commons was appointed in 1772 to carry out the general de naud for investigation. They reported in 1773 that, though forms of judicature were established and preserved, the despotic principles of government rendered thom the instruments of power rather than of justice, and often the means of the most grieveus coppressions under the cloak of the judicial character

In consequence, the Regulating Act was passed in 1778, which provided that the Government of Bengal should consist of a Governor-General and four counsellors; and the Presidents and Councils of Madias and Bombay were rendered subordinate to the Governor-General and Council of Bengal, which was empowered to make Regulations for the good order and civil government of the Company's settlements in India These Regulations were not to have any force until they were registered in the Supreme Court, with the consent and approbation of the said Court

The Act also established the Supreme Court, with authority over those who were personally subject to the Crown, consisting of a Chief Justice and three judges [subsequently reduced to a Chief Justice and two julges], who were to be appointed by the Crown and to be barristers of England of not less than 5 year's standing charter of the Court dates 1774. It authorised the Court to try all actions and suits against the Company's servants, or subjects residing in Bengal, Behar and Oussa, and to try any action or suit against every other inhabitant of India residing in Bengal, Behar and Orissa upon any contract entered into by any of the said inhabitints with any of His Majesty's subjects, where the cause of action exceeds Rs 500, provided the said inhabitant had agreed that in case of dispute, the matter shall be determined in the Supreme Court It had given it besides Citminal, Ecclesiastical, Equity, and Admiralty powers civil cases an appeal lay, as in the case of other colonies, to the Privy council In criminal cases power of appeal was also given, but subject to considerable restrictions. The

Mayor's Court in Fort William was abolished The Adamlets established under the plan of Hastings derived their authority from the Company

Quarrel between the Supreme Court and the Supreme Council.—Thus there were estated blished in India two independent and rival powers, viz. of the Supreme Court and of the Supreme Council; the boundaries between then being utterly undefined. deriving its authority from the Crown, one other from the Company. The Court issued the its writs, arrested and brought to Calcutta all persons (whatever their rank or consequence be in the country), against whom complaints were lodged. Defaulters to the revenue were set at liberty on habeas corpus, and the production in Court, of papers containing the most secret transactions of Government was insisted upon. Its interference destroyed the authority of the Provincial Courts, and reduced the collection of revenue, -a thing almost impossible Djectments at a brought for land decreed in the Dewani Adawalats, and prosportion was carried on by the Supreme Court against the judges of the Reveune and Civil Courts, for acts done in the regular performance of their business, and by those means, the course of civil and cuminal justice was entirely suspended.

In 1779, the quarrels and disputes reached a orisis. The Raja of Cassejurah abscended to avoid a process of the Supreme Court, and the Supreme Court proceeded to sequester his lands and effects. The Governor-General and Council instructed the Raja not to obey the Court, and ordered the troops to intercept the party of the Sheriff

and issued a notification to the natives of the three provinces of Bengal, Behar and Orissa, not to obey the Court, except in the two cases of their being British servants, or bound by their own agreement. But the Company's attorney was, by the orders of the Supreme Court, arrested and thrown into prison, and the Governor General and Council were at last individually served with a summons. They declined to appear, and a petition signed by the principal British inhabitants in Bengal, went home to Parliament, against the exercise which, the Supreme Court was making of its power.

The intention in passing the Regulating Act was to have secured to the Crown a supremacy in the whole administration of justice, but the provisions, viz; the making the Legislature subordinate to the Court, and at the same time directing the Court to enforce a system of law utterly inapplicable, in India, independently of, or in opposition to, the Government which was at the same time weakend by divisions, were madequate to the attain. ment of the object and have been defeated. It may be said in justification of the judges, that there was not that cooperation which they had expected from the Govern-The chief obstable the Court encountered, was the upholding of the N zamat under the Nawab and his native officers in a state of complete independence of it, and the transferring of the Nizamat Adawlat from Calcutta to Murshidabad immediately after the Court began to exercise its powers; that they were English lawyers sent out expressly to administer English Law, and had never heard of Hindu or Muhommedan Law, and to ignorance may be origin of their indiscretion and intemperance.

The Act of 1781.—In consequence of the petition aforesaid, came the Act of 1781. It declared that the Supreme Court should not have any jurisdiction in matters concerning the revenue. That no person should be subject to it by virtue of possessing any interest in lands or rents in Bengal, Behar and Orissa Employment by the Company, or the Governor-Gene al and Council, or by an Englishman, only brought the employe under the Court's jurisdiction in matters of wrongs and trespasses, and in civil suits by agreement of parties. No suit lay in the Supreme Court against any offices in Country Court for acts done in the performance of his duty. 'The Governor-General and Council were exempted for anything done in the execution of thour office, so also was any person acting according to then orders. In suits against the inhabitants of Calcutta, questions of Succession Inheritance, Contracts, &c. were to be determined, in the case of Hindus by the laws and usages of the Hindus, and in case of Mahommedans by the laws and usages of the latter, and where only one of the parties was a Hindu or Mahommedan, by the laws and usages of the defendant. The Supreme Court was given power to frame processes suitable to the religion and manners of the natives, which were to be subject to the royal approbation, correction, or ı ofusal.

The Act recognized the Civil and Criminal Provincial Courts existing independently of the Supreme Court, and the Governor-General and Council, as the chief appollate Court of the country, with power to frame Regulations for the Provincial Courts independently of the Supreme Court. The judgments given in this Court were to be

final, except upon appeal to His Majesty in own suits only, the value of which shall be £. 5000, and upwards. Copies of the Regulations were directed to be transmitted to the Court of Directors for approval or amendment. In Bengal, a Revised Code was issued in the same year.

Thus the year 1781 is a notable date in the history of the Indian Legislation From it, commenced the era (1) of independent Indian Legislation, (2) of the authority of the Supreme Court, as it continued for 80 years, (3) of the establishment of a Board of Revenue, entrusted with the charge and administration of all the public revenues of the provinces, (4) of the recognition by Act of Parliament of the established Sudder and Provincial Courts, and (5) of the recognition by Act of Parliament, and in the Revised Code of Bengal, of the right of Hindus and Mahom medans to be governed by their own laws and usages.

Legislation—In 1772, the most important exercise of the legislative power granted by Parhament to the Company, took place. The President and Council of Bengal made certain Regulations for the administration of justice, by virtue of which, certain Courts were 'established in Benga, with rules of procedure and law. The Regulating Act defined the extent of the legislative anthority of the Governor-General and Council, and placed it under the supervision and subject to the veto of the Supreme Court. But no enactments of any importance were passed till 1780, when the 'Governor-General and Council passed certain Regulations for the more effectual and regular administration of justice in the Previoual Civil Courts, and

confirmed and amended all existing Regulations respecting Sudder and Provincial Cours. In 1781 a Revised Code was issued

The Act of 1781 empowered the Governor-General and Council to hame Regulations for the Provincial Courts independently of the Supreme Court, copies of which were to be transmitted within six months, to the Court of Directors, and to the Sec etary of State, and if not disallowed within two years, were to be of force and authority. The Supreme Court was not however bound by any Regulations unless registered by it, as directed by the Act of 1778, till 1838 when an Act was passed doing away with the registration.

In 1797, an Act was passed which recognized all the Regulations made by the Governor-Gennal and Council as walid, though it is doubtful, whether many of them were not originally ultravires. It directed that all Regulations affecting natives, should be formed into a Regular Code, and printed with translations in the country languages and that the grounds of each Regulation should be profixed to it.

The Legislative Power of the Governors and Councils of Madras and Bombay. In 1800 the Governor and Council of Madras were empowered to make regulations for the Provincial Courts. In 1807, the same was done for Bombay. It does not appear that the Governor-General exercised any direct authority over the Governor and Council of Madras or Bombay, in these extends making laws. He had control over them Covernors in the matters, under the Act of 1773, and in proper in first and all cases whetever under the Act of ideas for first

Act of 1813—In 1813, the Governor General and the Governors and Councils of Madras and Bombay were empowered by an Act to impose duties and taxes within the towns of Calcutta, Madras and Bombay for the enforcing of which taxes, Regulations were directed to be made in the same manner as other Regulations. These were not to be valid, until they were sanctioned by the Court of Directors and Board of Commissioners. All persons repairing to the East Indies, were to be under the Regulations. They were also empowered to make Laws and Regulations, and Articles of war, for the order and discipline of officers and soldiers, and for the administration of justice by Courts-Martial. They were also authorized to impose duties of customs.

They enacted Laws and Regulations till 1884. Down to that date, there were five different bodies of Stalute law in force in the Empire.—

- (1) English Statute law, existing in 1726 as far as applicable,
- (2) English Acts subsequent to that date, which are expressly extended to any part of British India
- (3) Regulations of the Governor-General's Council, which commence with the Revised Code of 1798, only having force in the territories within the Presidency of Bengal.
- (4) Regulations of the Madras Council having force in the Presidency of Fort St. George.
- Regulations of the Bombay Council having force when the Governor idency of Fort St. David.

 When the Governs 888.—Accordingly, the Act of William IV. Regulations for the day, d. by which the Governor General and tration of justice is lower given them to make General Laws

and Regulations for the better government of His Majesty's Indian territories, and to repeal, amond, or alter any existing Laws or Regulations, provided they should not make any alteration in the Martial law, or make any law affecting the prerogative of the Crown, or the authority of the Parliament, or any part of the common law on which English subjects allegiance depended

The Act contained four provisions relative to legisla-

- (1) In case of any disallowance by the Court of Directors, the Governor-General shall repeal all Laws and Regulations so repealed.
- (2) All such Laws and Regulations should have force in all parts of British India
- (3) The Governor General shall not, without the sanction of the Court of Directors, make any laws, authorising any Court of justice not established by Royal Charter, to sentence to death any of His Majesty's natural born subjects born in Europe, or the children of such subjects.
- (4) The Court of Directors had to submit for the approbation of the Board, rules regulating the procedure of the Governor-General and Council, and prescribing the modes of promulgation of any Laws or Regulations to be made by them.

An express preservation was made of the right of Parliament, to continue to logislate for all, the inhabitant of British India Indian Law Commissionnes were explicitly blished, and Local Legislatures supersoded, the Governoist having power to propose drafts or projects of any ntary or Regulations which they might think expedience, for first

there was established in India, one central legislative authority, (in place of the three Councils), having authority to pass Laws and Regulations for the whole British territories in India. The Act also added to the Council a new legal member, who needed not be chosen from among the Company's servants, and who was entitled to be present only at meetings for making Laws and Regulations.

The Act of 1853—In 1853, an Act was passed to enlarge the Council by the addition of new members, of whom two were Judges of the Supreme Count, and the others were appointed by the Local Government. Consequent upon these changes, discussion became oral instead of in writing, bills were referred to select committees instead of a single member, and legislative business was conducted in public instead of in secret. The Governor-General's assent was necessary for the enforcement of any Law or Regulation, whether he had or had not been present in Council, at the making thereof. No Law or Regulation should be invalid by reason only, that it had affected any prerogative of the Crown, provided it had received the previous sanction of the Crown.

Under the former Act, the power of making laws was vested in the Governor-General and four ordinary members of Council, three of whom were appointed from persons in the Covenanted service, and the fourth from Dersons who had never been in the service. The duty of when the fourth member was confined entirely to the subject of When the ation. He had no power to sit and vote in the Regulation we council. By the new Act, he was made a member tration of Accutive branch, as well as, in the legislative branch,

and the duties which under the former Act, rested on him princ pally, were required to be performed by many. The Governor of each Presidency and the Lieutenant-Governor of each Lieutenant-Governorship were empowered to appoint a Legislative Councillor. By the new Act, the Legislative Council was increased by members of practical experience. In addition to the Legislative Councillor, the Chief Justice of Bengal and one of the Puisne Judges of the Supreme Court were also members; and six members in addition to the Governor-General, or the Vice-President, or Chairman, were necessary to form a quorum, and the presence of one of the Judges, or of the fourth ordinary member, was rendered essential.

The Act of 1858—Ine Act of 1858 finally transforded the administration from the Company to the Crown. It enacted, that India shall be governed by, and in the name of the Queen, through one of her principal Scoretaries of State, assisted by a Council of 15 members. The Governor-General received the new title of Viceroy.

The Indian Council's Act.—Lord Canning was dissatisfied with the changes made by the Act of 1858, and objected that the Council was assuming the character of a representative and debating society. He advocated also the policy of decentralisation. But the event which immediately led to the passing of the Indian Council's Act 1861; were the differences, which are between the Supreme Government and the Government of Madras, on the Income Tax Bill, and the doubts, as to the validit of laws introduced into Non-regulation Provinces, within enactment by the Legislative Council.

It was directed by the Act, that the Governor re first

should summon, in addition to the ordinary members of the Council, not less than six, nor more than twelve, additional members, Europeans or Natives, of whom half at least, shall not be office-holders. The Legislative Council has no power to transact any business, other than the consideration and enactment of measures, introduced into the Council for the purpose of such enactment. The previous sanction of the Governor-General was necessary, before any measure can be introduced into the Council affecting.

- (1) The public debt or public revenue of India.
- (2) The religion, or religious rites and usages of any class of Her Majesty's subjects in India.
 - (8) The discipline or maintenance of the arn y.
 - (4) Foreign relations.

The Governor-General's consent was necessary to the validity of any law, subject to its disallowance by Her Majesty. The Legislative powers of the Council extend (1) to repeal, amend, or annul any Regulation in force, excepting Acts of Parliament passed after 1860, or the unwritten constitution of Britain, (2) to make laws for all persons in British Indian Territories.

In cases of emergency, the Governor-General was empowered to make, by himself, laws which should only remain in force for six months, and might be earlier disallowed by Her Majesty, or controlled, or superseded by a law of the Legislative Council.

But not The same Act vested in the Governors of the Presiwhen the same of Madras, and Bombay, similar power to Regulation te, in addition to the ordinary members, certain tration of h who should be entitled to sit and vote at the meetings, and to make laws for the government of those Presidencies In order a law should be valid, it was necessary that it should be assented to by (1) the Governor, (2) the Governor General, subject to its disallowance by IIcr Majesty. The previous sanction of the Governor-General was necessary, before such Councils can take into consideration any Laws or Regulations for any of the following purposes —

- [1] The public debt or public revenue of India.
- [2] The Mint.
- [3] The conveyance by Post Office or telegraph, within the Presidency.
 - [4] Penal code.
 - [5] The religion or religious rights and usages,
 - [6] The army.
 - [7] Patents or copyright.
 - [8] Foreign relations.

It was further provided, that no law shall be deemed invalid, only by reason of its relating to any of the purposes, comprised in the above list, if assented to by the Governor General.

Power was given to the Governor-Conoral in Council to establish other Local Legislatures by proclamations. Accordingly, a proclamation was issued constituting the Bengal Legislature Council in 1802. These Local Legislatures have no power to control, or affect by their acts, the jurisdiction of the High Courts.

CHAPTER II.

The Presidency Town System

The Supreme Court - The judicial institutions established in Butish India by the Crown and Parliament, before the introduction of the High Courts, were originally intended for the benefit of the Company's factories, and subsequently for the Presidency Towns, though they had a partial jurisdiction in the Mofassil. Foremost amongst these, was the Supreme Court at Calcutta, which exercised a separate jurisdiction from the Company's Court, up to 1862.

In 1784, an Act was passed giving the Supreme Court criminal jurisdiction over British subjects in Native States. In 1786, this junsdiction was extended to any part beyond the Cape of Good Hope, and the Straits of Magellan, within the limits of the Company's trade. Admitalty jurisdiction on the High Seas, was given in 1798, and later on, the jurisdiction was extended to all persons whatsoever, and Sessions were also ordained four times a year. In 1801, the power of the Supreme Court was extended to and over the Province of Benares. But no speriod, it had 5 junsdictions, viz,--Civil, Criminal, when the ity, Ecclesiastical and Admiralty. An appeal lay to

Regulation by Council in all suits when the amount in dispute.

tration of his value of Rs. 100,00.

Courts in Madras and Bombay.-In Madhly and Bombay, the Mayors Courts established in 1753, existed till 1797. They were replaced by the Record's Courts, being in fact the old Mayor's Courts, with the addition of a Recorder They had full civil? oriminal, ecclesiastical, and admiratty jurisdiction, as that of the Calcutta Supreme Court. Restrictions corresponding to those imposed by Parliament in 1781 on the jurisdiction of the Supreme Court, were made applicable to these Recorder's Courts. In 1301, Madras got a Supreme Court, and Bombay in 1828 In the latter's charter, was a clause prohibiting it from interfering with revenue cases, even within Bombay. A dispute arose between the Court and the executive, concerning its right to issue a Habeas corpus for a Hindu boy in Puna, and for a prisoner imprisoned by a Company's Court. In both cases, the Privy Council decided in favour of the executive.

Courts of Requests—Besides the Supreme Courts, there were others belonging to the Presidency System. Courts of Requests were established in 1753, and were empowered to try suits up to 5 pagodas. Their jurisdiction was extended to Rs 80 in 1797, and in 1800, they were allowed, if specially sanctioned by the Government, to try up to Rs 400. These Courts were made subject to the order and control of the Supreme Courts. These Courts were in 1850, superseded by Small Cause Courts.

Justices of the Peace—Tho next judicial officers, who formed part of the Crown, or Parliamentary system, were the Justices of the Peace. They were first

ablished at Madras, Bombay and Calcutta in 1726 by charter of George I, which appointed the Governors and Councils of those places to be Justices of the Peace with power to hold quarter Sessions. The Regulating Act made the Governor-General and Council and the Supreme Court Judges, Justices of the Peace in Fort William In 1793, the Governor General in Council were empowered to appoint Justices of the Peace from the Covenanted servants of the Company. In 1882, the Governments of the three Presidencies were empowered to appoint any person in British India, not being subject of a foreign state, as Justice of the Peace. The classes subject to them were—

- (1) All persons in respect of offences committed within the limits of the ordinary jurisdiction of the Supreme Court.
- (2) All Butish subjects, except as regard crimes and offences triable by a jury; and Butish officers and soldiers at places more than 120 miles from the seat of Government.
- (3) All persons who had committed oftences or crimes at sea.
- (4) Residents without the jurisdiction of the Supreme Courts in certain cases.

Magistrates of Police for the Presidency Towns were appointed in 1856. It was required that they should be previously made Justices of the Peace. By the Code of Criminal Procedure passed in 1861, and previously thereto, European British subjects could only be committed, or held to bail, for trial by a Justice of the Peace A.

Magistrate not being a Justice of the Peace, could only hear the complaint, issue a warrant of arrest, and hold him to bail, with a view to the complaint being investigated by a Justice of the Peace The functions of a Justice of the Peace were:—

- (1) Summary trials.
- (2) Investigation of charges with a view to the committal or discharge of the accused person.
- (3) Prevention of crime and breaches of the peace.

Coroners—In 1793, the Governors and Councils in their respective Presidencies, were empowered to appoint certain British subjects to be Coroners The Judges of the Supreme Courts were made Coroners, as well as, Justices of the Peace in their respective Presidencies.

Jurisdiction of the Company's Civil Courts over European British Subjects.—In 1813, it was enacted that civil actions brought by Natives against European British subjects, should be heard in Civil Courts of the Company, provided that an appeal should lay in the Supreme Court, in cases where Natives had the right of appeal to the Sudder Court. In 1886, the last provision was repealed. No further step we staken towards a uniform administration of civil justice, till the union of the Sudder and Supreme Courts.

The general exemption of Europeans from the criminal jurisdiction of the Provincial Courts, has idinained till the present day. The Criminal Procedure Code, and the Indian High Court's Act passed in 1861, recognise

and preserve that exempt on By the Statute of George III. In 1813, however, the Magistrates in the Provinces were authorized to act as Justices of the Peace, and to have jurisdiction over European British subjects out of the Presidency Towns, in certain oriminal cases, and also in cases of small debts due by them to Natives

CHAPTER III

Provincial Civil Courts.

Separation of the judicial and Fiscal authority —When Warren Hastings started his scheme of civil administration in the provinces, he united the julicial and fiscal authorities in the Collector's hands. In 1775 the majority of the Governor's Council made over the revenue work to six Provincial Councils, appointed for the divisions of Calcutta, Buldwan, Dacca, Mulshidabad, Dinagepore, and Patna, and the judicial work to six Nature Amile, in place of the Collectors. From these Amils, an appeal lay in every case to the new Provincial Councils, and thence to the Governor and Council as the Sudder Adawlat. The majority of the Council also restored Mahommad Reza Khan to the high office of Naib Subah, which in effect, recognised the existence of the Nabob's government. He was nemoved again in 1778,

In 1780, Regulations were passed in prisuance of the legislative authority granted by the Regulating Act, which confined the jurisdiction of the Provincial Councils exclusively to revenue matters, and established District Courts of Dewani Adamstas, 18 in number, within the jurisdiction of the Provincial Councils, but to exercise jurisdiction independently of the Councils. Regulations for their guidance, were drawn up by Sir Elijah Impey, and incorporated in a Revised Code. The ultimate appeal lay to the Sudder Dewani Adawlat, which not only heard appeals, but regulated the proceedings of the lower Courts. Shortly after this distinct separation of civil justice from revenue collection, the Supreme Court was deprived of the right to interfere in revenue matters.

In 1781, the Chief Justice of the Supreme Court was appointed Judge of the Sudder Dewani Adamlat, and was vested with all its powers. The Governor-General in Council who previously formed that Adamlat, ceased to belong to it; but it was stipulated, that the Chief Justice should enjoy the office and salary at his pleasure. In the same year, the Sudder Dewani Adamlat was constituted a Court of Record. In 1782, the Court of Directors sent out orders to the Governor-General in Council, to resume the superintendence of the Court

Adamlats established under the plan of Cornwallis —Loid Cornwallis in 1787, directed the re-union of the functions of civil and minnal justice, with those of the collection and management of the revenue. He placed the Dewani Adamlats under the superintendence of the Collectors. He resumed the superintendence of

the administration of Criminal justice, and removed the Nizamut Adaylat from Moorshedabad to Calcutta. In 1798, Comwalis reverted to the old system, separating the collection of revenue from the administration of justice, which were thenceforth confided to separate officers. The Collectors we thenceforth entrusted with the collection of the revenue payable to Government, as executive officers, subordinate to the Board of Revenue. The Government divested itself of the power of interfering in the administration of the Laws and Regulations in the first instance, reserving, as a Court of Appeal or Review, the decision of certain cases in the last resort, and lodged its judicial authority in Courts of justice.

courts of Dewani Adawlats were established in 23 zillas and 8 ortics. The Suddur Dewani Adawlat was established at the Presidency, and consisted of the Governor-General and member of the Supreme Council. It received appeals from the Provincial Courts and Councils, and from the Board of Revenue. In 1801, it was made to consist of three judges, to be selected rom the Covenanted servants, and in 1811, of a Ohief Judge, and as many Pu'sne Judges as the Governor-General in Council should think necessary.

Four Provincial Courts were established within the provinces of Bengal, Behar, and Orissa, for the purpose of hearing appeals from the several Zilla and City-Courts, he Suddur Dewani Adawlat being vested with appellate urisdiction, and general power of supervision over the nferior Courts, in all suts above Rs. 1,000. By later

Regulations, two more Provincial Courts were established, one for the Province of Beneras, and the other for the Ceded Provinces.

Below the City and Zilla Courts, were two classes of inferior Judges. First in order, the Registers of the se Courts, who when authorised by the Judges, were ompowered to try and decide causes for amounts not exceeding Rs. 200, then decrees not being valid, until revised and counters'gied by the Judge. The next and lower grade Judges were the native Commissioners, empowered to try causes up to Rs. 50. Of those officers, the head Commissioners were called Sudder Amins, and the rest Moonsife.

In 1831, Moonsifis were invested with power to try and determine suits for money and other personal properties of the value of Rs. 300, and suits with regard to land, of the value of Rs. 300, except such land as was exempt from the payment of revenue. The Judges were empowered to refer to the Suddur Amins, any suits, the value of which did not exceed Rs. 1,000 Principal Suddur Amins were also authorised to be appointed, to whom suits might be referred not exceeding Rs. 5,000. Register's Courts were abolished; Provincial Courts of appeal were gradually superseded, and in two years finally abolished; and original jurisdiction was given to the Judges in all suits exceeding in value Rs. 5000, with an appeal direct to the Sudder Dewant Adawlat.

Judicial functions of the Collectors—In 1794, Civil Courts were empowered to refer cases to the Collectors, who were bound to send in their report,

which the Judges might confirm or set as de. This was the commencement of a retiansfer to the Collectors of judicial functions. In 1795, summary procedure was allowed for claims to arrears of rent. Begulation VII. of 1799—the basis of summary suit law for a long time-enforced the strictest observance of the rule laid down in 1793, that the Civil Courts were to give priority to rent and revenue cases Again in 1812, a summry remedy was given to the ryot against his landloid, in all cases in which he was aggrieved by distress for lent. Such cases were ordered to be referred to the Collector. In 1824, Collectors were empowered to hear and determine by a summary process, and subject to a regular suit in the Civil Courts, all rent suits which might be referred to them by the Judges, and the same power was given them for compelling the attendance and the examination of witnesses, and generally for all processes, except execution of their decrees which was confided to the Civil Courts. The Regulation of 1831 deprived the Judges of all jurisduction over summary suits relating to rent, and transferred them to the exclusive cogn zance of the Collectors, whose decisions were to be final, subject to regular sait to be brought in the Civ. Court.

Act X. of 1859 enacted that the following suits should be cognizable by the Collectors, and except in the way of appeal, should not be cognizable in any other Comit:—

- (1) Suits for the delivery of Pattas and Kobooleuts
- (2) Suits for damages, on account of the illegal exaction of ient, unauthorised cess, &c.

- (3) Suits for enhancement or a batement of ient.
- (4) Suits for alleaus of lent,
- (5) Suits for ejectment or cancelling a lease for non-payment of cent, or for breach of conditions of any a contract involving a liability to ejectment, or cancelment of a lease.
 - (6) Suits to recover the occupancy of a land.
- (7) Suits ausing out of the expicise of the power of distraint, conferred on Zamindars.
- (8) Suits against agents, employed by Zamindais for receipt of ient.

Deputy Collectors were placed under Collectors, and the latter under the Commissioners and the Board of Revenue Appeals were allowed from the Deputy Collector to the Collector, and from the Collector to the Commissioner. Oldels passed in appeal by a Commissioner or a Collector, are not open to any further appeal, but the Board of Revenue or the Commissioners may call for any case, and pass such order as they think lit. A. Collector's decree is not appealable if for money below Rs. 100, unless the decision involves some question of right to enhance tent, or some question relating to a title to land. Mr. Peacock and Sn Charles Jackson opposed the passing of the bill, on the ground that it invested the revenue authorities with power to try the suits between laid-lord and to ant, and deprived the regular Civil Courts of their jurisdiction, notwit istanding that the suits might involve difficult questions of law and fact.

Ten years after, the Bongal Legislative Council passed Act VIII of 1869, which transferred to the cogni-

zance of the Civl Courts all suits which under the former Act, were made triable by the Collectors. This Act, however, can only be put in force in the Lower Provinces, the Local Legislature having no power to pass laws for the North Western Provinces of the Bengal Presidency.

Civil Courts, Special Appeals from their Decisions—The powers of the Civil Tribunals had been gradually extended, so as to include European British subjects within their jurediction. In 1843, an Act was passed, enacting that the Sudder Courts should hear special appeals from all decisions passed in regular appeals in all Subordinate Civil Courts. In 1853, an Act was passed which repealed the Act of 1843, and provided that in all the three Presidencies, special appeals should lie to the Sudder Courts from any decision passed on regular appeal in any of of the Courts below, on the following grounds.—

- (1) A failure to decide all the material points in the case, or a decision contrary to law.
 - (2) Misconstituction of any document.
 - (3) Ambiguity in the decision itself.
- (4) Substantial error or defect in procedure, or in the investigation of the case.

No such special appeal was to lie on a matter of fact

Act VIII of 1859 codelled the arrangement concerning procedure as to Zilla, Sudder Ameen, and Munsips Courts, which before were to be found in a multitude of Regulations from 1793 to 1831.

Adawlat System in Madras and Bombay— In Madras, the Adawlat system framed upon the plan

of Lord Cornwallis, was introduced in 1802. The Civil and Revenue Courts were kept distinct. The Registers had jurisdiction to try suits referred to them by the Judges. The Judges could decide finally in suits under Rs. 1000 in value There were four Provinc al Courts of appeal, and the Sudder Court consisted of the Governor in Council, with an appeal from him in suits of the value of Rs 45000 to the Governor-General in Council. In 1806, the constitution of the Sudden Court was altered, and new judges appointed. In 1807 the Governor was declared to be no longer a judge. In 1816 heads of villages were appointed Munsiffs to by suits not exceeding Rs 10 in value, and also authorised to assemble village punchayets for the decision of those In 1848 the Provincial Courts of appeal were abolished. New Zilla Courts were established, and the junsdiction of the Subordinate Judges and Principal Sudder Ameens, was increased so as to include all suits of less value than Rs 10000. These Courts had jurisdiction over Europeans, Americans, and Natives as well, and an appeal lay from these to the Zilla Judges.

In Bombay similar Adawlat system was introduced in 1794. In 1827, all the Bombay-Regulations passed previously to that year, were rescinded and a new code drawn up, based upon the Bombay-Regulations of 1798. In 1845 the appointment of Joint Zilla-Judges was authorised Act XIV of 1869 was eventually passed, which constituted the existing Civil Courts of Bombay.

Both in Madras and Bombay, the Revenue, officers had the power of trying all rent-suits. From their decisions the appeal lay in the former Presidency to the Zilla Courts,

In the latter to the Sudder Court. In 1866 the Local Legislature at Bombay passed at Act to divest the Courts of Revenue of jurisdiction in cases relating to the rent of land, and the use of wells, tanks, water courses, .&c, and fo yest such jurisdiction in the Civil Courts.

CHAPTER IV.

The Provincial Criminal Courts.

The Administration of Criminal Justice, aud the Changes effected by warren Hastings.—Tho scheme for the administration of criminal as well a ofs Civil justice in Bengal is attributable to Hastings. The principle originally adopted, was to retain the Mahomedan law, liw officers, and courts for the repression of clime subject to the supervision of the Government. Foujdari Adamlats were first appointed in Bengal for the trial of persons charged with crimes, pursuant to the Regulations passed by the President in Council in 1772. The Collectors of Revenue were directed to superintend the proceedings of the officers in those courts A Sudder Nizamat Adawlat was established at Muishidabad, under the superintendence of a Committee of Revenue, for the purpose of revising the proceedings of the Provincial Courts in capital cases. The Sudder Nizamat Adaylat was transferred to Calcutta for a short time In 1775 it was sent back to Mushidabad, and the Mahomedan Nazim again superintended criminal justice.

Up to 1772, Zamindars were responsible for the public safety and the maintenance of the public roads. In that year, the Fouzdary jurisdict on of the Zamindars was transferred to the Adawlats, for chakran lands had been resumed, In 1774, Hastings divided Bongal for pur poses of pólice, into fourteen different Districts Thannadais were appointed over them, landholders were enjoined to assist; and Foujdais were appointed to appiehend all offenders agaist the public peace. In 1781, the Toujdars and their subordinate Thanna lars were abolished, and the Judges of the Civil Courts vero invested with the power of apprehending and sending for trial, offenders before the Criminal Courts Subsequently, the Judges were vested with the authority to hear and decide complaints of slight offences. And in order to afford the Government some control over the penal jurisdiction of the country, a new office was established at the Presidency under the immediate superintendence of the Governor-General. To this office, report of proceedings, with lists of commitments and convictions were transmitted every month, and an officer under the Goverior-General with the title of the Remembrancer of the Criminal Courts, was appointed for the transact on of its affairs.

The Sudder Nizamat Adawlat, and the Courts of Circuit.—In 1790, the powers of the Nabab Nazim passed to the Governor-General in Council, and the system of criminal justice was entirely remodelled. The Sudder Nizamat Adawlat, consisting of the Governor-General and the members of the Council, was again removed to Calcutta in the same year. The Regulations, passed in 1790, were, with amendments and alterations,

reenacted in 1793. In 1801, the Court of Nizamat Adawlat as well as that of Dewani Adawlat, was directed to be composed of a Chief Judge and Puisne Judges, and from that time both Courts exercised their functions distinct from the Legislative and Executive authority of the State. In later years, the number of Judges of the Sudder Nizamat Adawla, was increased, as in the Sudder Dewani Adawlat.

Next in rank were the Courts of Chrouit, superintended by English Judges, assisted by Natives versed in the Mahomedan law They were originally four in number, (subsequently increased in number) and were composed of the same Judges who sat in the Provincial Civil Courts of appeal, and of the Kizi and Mooftee attached thereto. The duties of the Court of Circuit, including the gaoldeliveries in the principal station, were in ordinary cases performed by the 2nd, 3nd, and 4th Judge in regular succession, the 1st Judge remaining at the principal station. These Courts of Circuit were considered to have failed to afford prompt administration of justice, and were abolished in 1829 and Bengal was divided into 20 divisions under 20 Commissioners of Revenue and Circuit, who were entrusted with the powers formerly vested in the Courts of Circuit, together with those belonging to the Boards of Revenue. The Governor-General in Council was empowered to direct any Commissioner, or Civil Judge to hold Sessions.

In 1881, the Magistrates were authorised to refer to the Sudder Ameens, any oriminal case for investigation, although such Ameens were not authorised to make any commitment Zilla and City Judges, not being Magistrates, were empowered to hold Sessions, when ordered by the Governor-General in Council. In 1832, provision was made for referring suits to a Punchayet, or for constituting assessors to assist the Judge, the decision however being vested exclusively in the officer presiding in Court

Courts of Sessions. - The practice which grow up under this state of the law, was for the Local Governments to appoint particular persons to be District and Sessions Judges. There are several passages in the Regulation of 1831, and in Act VII of 1835, which assume the existence of such a functionary as a Sessions Judge, but there is no express legislative authority for his existence, nor for the power of the Local Governments to appoint him In the Criminal Procedure Code of 1861, reference is made to a Court of Session; but in Bengal and the Western Provinces, the power which the No1th Sessions Judges exercised, were derived from the old Courts of Circuit. Neither in Madras, nor in Bombay, were the Sessions Judges directly connected by law with the Court of Session, referred to in the Criminal Procedure Code The practice of appointing squarate persons to be District and Sessions Judges, was for a long space of time, utterly without authority. But it continued after the repeal in 1868 of the Regulation of 1881, and Act VII of 1885, to which apparently it traced its existence. After that repeal, the only law under which a Sessions Judge could be appointed, was the Regulation of 1829, It was under this state of things that Mr. Titz James Stephen introduced into the Legislative Council, the Bengal Sessions Courts Act of 1871. It provided for

the appointment of Sessions Judges, and Additional Sessions Judges by the Local Governments in Bengal and the North-Western Provinces, and confirmed the existing appointments. It was repealed in 1872, the Criminal Procedure Code of that year constituting all the Criminal Courts of the country.

Administration of Criminal justice Madras and Bombay —In Madras a Criminal system similar to the one in Bengal, was introduced in 1802. Magistrates and Assistant Magistrates were appointed with power to apprehend and in light cases to inflict petty pun'shment. Four Courts of Circuit were established, and a Chief Criminal Court consisting of the Governor and Council. In 1827, Assistant Judges were appointed, and then we e constituted Joint Criminal Judges of them Zillas Principal Sudder Ameens were appointed, without jurisdiction over Europeaus and Ameileans. Itial by jury was ordered to be gradually introduced. The Madias Courts of Oncuit were abolished in 1845, and the Judges of the Zilla Courts were directed to hold permanent Sessions. Natives might be called in to assist, either as assessors, or as a july.

In Bombay in 1797, Criminal Courts were established on principles similar to those as in Bengal Mahomedan Law did not generally prevail in Bombay. Hindus were tried by their own criminal law, Parsis and Christians by English law. In 1827, the Code was passed revising former Regulations. Magistrates and Police-officers apprehended offenders, and punished for slight offences. Zilla Judges and Assistant Zilla Judges exercised criminal jurisdiction, the Court of Circuit held by one of the

Fouzdati Adawlat Judges, retaining cognizance of the most hemous offences. A Special Court was also established for the tital of political offences. In 1880 the Provincial Court of Circuit was abblished, and the Criminal Judges were vested with the powers of Sessions Judges and Courts of Circuit. Joint sessions Judges were appointed under Act XXIX of 1845. In 1841, it was enacted that crimes against the State should be cognizable by ordinary tribunals.

Nizamat Adawlat for the North-Western Provinces—A Court of Nizamat Adawlat was constituted for the North Western Provinces in 1881, possessing the same powers as were vested in the Nizamat Adawlat at Calcutta

The Police-System—In 1793, the land-holders who were bound to keep up establishments of Thannadors and Police-officers were required to discharge them, officers being *appointed on the part of Government to superintend the police of the country. The Magistrates divided their Zillas into police-jurisdictions, each of which was guarded by a Daroga with an establishment of officers, whose duty was to apprehend offenders and send them to the Magistrates. The cities were divided into Winds, and guarded by Darogas, who were subject to the authority of the Kutwals of each city Purther, the Judges of the Zi la and City Courts were declared to be Magistrates of the Zilla or City, and the public gaols were placed under their charge. Shortly afterwards Assistants, were appointed to the Magistrates In 1807, the Magistrates were given an extended jurisdiction, and in 1308 a Superintendent of Police was appointed. In 1810 Government was authorised to appoint other persons, not being Zilla or City Judges, to exercise with them the office of Joint Magistrates. In 1818, then jurisdiction was extended, and they were empowered to try offenders charged with burglary and theft.

Thus there were, (1) the Joint and Assistant Magistrates, (2) the Superintendents of Police, (8) the Daiogas, (4) the Mohuirahs, second officers of the Thana, whose duty being to preserve the records, and write reports, and to exercise the powers o' the Daiogas in the absence of the latter, (5) the Jamadais, whose duty being to see that the Barakandazes were in attendance, and that all prisoners and property brought to the Thana, were duly guarded, (6) the village we tohinen.

In 1829, the Courts of Circuit were abolished, and the magistracy and police were placed under the superintendence and control of Commissioners of Circuit, and the office of the Superintendent of Police was abolished. In 1837, however, the Superintendents were reappointed.

.In Benares &c, the old police-arrangement was maintained up to 1807, when the Bengal System was introduced.

Police in Madras and Bombay—In Madras the Native system was retained up to 1816, when heads of villages aided by village watchers, were to discharge the duties of policemen. The Tashildar was the head of the Police of the District. The Magistrates and their Assistants were generally charged with the maintenance of peace.

In Bombay, Police system was framed on the same plan as in Madras. In 1820, a Sudder Fouzdari Adawlit

was established at Surat, consisting of four Judges who were directed to go on crouit. By the Revised Codo in 1827, the duties of the police were directed to be conducted by the Judge and Collector of each District, the District Police-officer, and the heads of villages. The Migisz trates and their Assistants were empowered to apprehend all persons charged with crimes or offences

Reform of the Police System -The endiest attempts at reform of the police system, were made in the Presidency Towns, by appointing Superintendents of Police separate from the Magistrate, and appointing non official Justices of the Peace, Native and European. The first attempt to reform the Mofussil-Police, was made in Sind, by Sn Charles Napier, who drew up a plan on the model of the Irish Constabulary, of which the characteristics were -- (1) separate organisation, (2) complete severance of police and judic'al functions, (3) complete subor. dination to the general Government, (4) d scioline, so far as was necessary to effective organisation Lord Ellenborough ordered its extension to the North-Western Provinces, Sir George Clerk in 1847, in Bombay, and Sir Henry Lawrence, in the Punjab, though with some al terations. This system was introduced it Oudh in 1858 by Colonel Bruce, and in Madias in 1859.

Finally Act V. of 1861 was passed. Under it the entire Police establishment under a Local Government, is enrolled as one police-force, under the superintendence of the Local Government, while its administration in each general Police District is vested in an Inspector-Ge enal and his subordinates; and throughout the local jurisdiction of the Magistrate of a District, it is vested in a Dis-

Magistrate The duty of a Police-officer is, (1) to execute all orders and warrants, (2) to collect and communicate intell gence affecting the rublic peace, (3) to prevent the commission of offences, and public nu sances, (4) to detect and bring offenders to justice

CHAPTER V.

The Privy Council

Early History of the Privy Council—For a long period in the early history of England, there was a Great Council or Parliament on the one side, and a Select Council which surrounded the King, on the other. Legislative and Judicial 1 ghts belonged to the Larger Assembly, but were constantly exercised by the Smaller Council. The assembling of the Larger Council, however, gradually fell into disuse. Towards the close of the 12th century, the three Superior Courts of Common Law, with purely secular jurisdiction were establis red. In course of time, the Puvy Council, although it inherted strong claims to appellate jur sdict on, and a power, by vitue of Roya', prerogative, to interfere with the proceedings of the Court/, was obliged to abstain from violating their independence. The insecure state of society at that time, required its constant interference, and its authority was increased during the Wars of the Roses Besides the Common Law

Courts, there alose the Court of Chancery, with an extensive equitable jurisdiction, mostly exclosed by Ecclesiastical Chancelois, and a right to interfere with the course of law. The Privy Council and the Court of Chancery were for a long period, closely connected. At the end of the 14th century, the latter established its independence of the Privy Council. Further than that, the Great Council of older times developed into a Parliament, and the House of Lords reconstituted themselves the High Court of English justice. The Commons also aspired to share in the supreme judicial authority. The growth, therefore, of Parliament, of Chancery, and of the Common Law Courts, tended strongly to restrict the authority of the Privy Council, to the discharge of oure y executive functions

With the rise of the Tudois, the Privy Council, under he name of the Star Chamber, assumed a power of adudicating in all causes that might concern the state of the Commonwealth. At this time, it achieved a most unconstitutional triumph over the House of Lords; and 't frew into its own hands, and never afterwards lost, the exclusive adjudication of appeals from foreign and colomal dependencies of the Crown, and from the Channel Islands. Appeals were first gravted from Jerescy in 1672. The Act XVI, of Charles I, abolished the Star Chamber, and the whole of its cognate jurisdiction; and the civil jurisdiction of the Privy Council was declared to be a usurpation contrary to the laws of the land. Even the fervid loyalty of 1660 was unable to restore to the Privy Council, any portion of its equity or eriminal jurisdiction in England.

Present Power of the Pr.vy Counc'l. The Prvy Council has now the only right of examining and committing for high treason, without the power of punishment, and of granting charters. These, together with its civil jurisdiction over the Colonies, and its right to entertain appeals from the Ecclesiastical and Admiralty Courts in England, alone remain of its former judicial authority. The result is that the House of Lords has regained, since the Restoration, the whole of the appellate jurisdiction over the English Courts of Law and Equity.

Right of Appeal to the Privy Council from the judgments of the Courts of India.—The first occasion, upon which the right of appeal was granted, by Royal Charter, to the Privy Council, from the judgments of the Courts of India, was in 1726, viz --- From the Mayor's Courts, flist to the Governor and Council, and then to the Privy Council, where the amount in dis pute exceeded Rs. 4000. The same right was reserved from the judgments of the Supreme Court of Bengal, and from the Recorder's Courts, and the Supreme Courts of Bombay and Madras. In 1781 an appeal was given from the decisions of the Governor-General and Council, acting as a Civil Appeal Court, in cases over £ 5000 Rules and orders were framed by the Supreme Court to regulate the procedure of the appeals. The Sudder Court has no such power, and consequently Regulation XVI of 1797 was passed for the purpose, and limited the right of appeal in point of time to a period of six months from the date of the judgment, and in point of value to cases of the value of Rs. 50000. In 1818 the right of

appeal from the Sudder Courts of Madras and Bombay to the Privy Council was established; and the latter had a right to reject or receive appeals

With regard to the power of the Privy Council to entertain appeals, and of the suitor to prefer them, the general principle is, that the Crown has an inherent general right to admit appeals, but it had delegated to the Colonial Legislature, the duty of framing provisions on the subject of appeals, and had thus limited the prerogative right to receive all kinds of appeals. It has been settled that in cases of felony, when the Supreme Courts in India have not granted leave to appeal, the Privy Council can not advise the Crown to grant such relief.

It appears that in the sixty years which chapsed from the establishment of the Supreme Court to the Statute of William IV which constituted the Judicial Committee of the Privy Council; only 50 appeals were instituted, and these were chiefly from the Supreme Court.

Judicial Committee of the Privy Council.—In 1888 an Act of William IV was passed, and under it a pormanent Judic il Committee was appointed for the disposal of appeals. The Committee was composed of the President of the Council and the Lord Chancellor, and several of the Judges of the highest rank, with power to the Sovereign to add any two Privy Councillors. It was empowered to review all sentences formerly appealable to the High Court of Admiralty, or to the Commissioners. In addition to that, the entire appellate jurisdiction of

the Sovereign in Council was directed to be exercised solely by the Judicial Committee, and power was given to the Crown to refer to it, any such other matters whatsever, as His Majesty should think fit.

The Pivy Council have power to determine, or direct the examination of witnesses, at discretion, to remit the cause to the Court below for rehearing, and to direct issues to be tried in any Court in His Majesty's dominions abroad

Rules relating to appeals from the Courts of India.—In 1838, an order in Council was issued, which hmited appeals from the Sudder Courts in India, in point of time to six months from the date of judgment, and in point of value to Rs 1000), instead of Rs. 50000. In 1846 an Act was passed, which provided that from the commencement of 1846, all appeals admitted by the Sudder Courts should be taken to be abandoned and withdrawn by consent of parties, unless some proceedings should be taken in England within two years after the arrival in England of the transcript.

In 1863 an Indian Act was passed with reference to certain appeals not regularly provided for. It provided that such appeals should be admitted where the subject-matter in dispute amounted to Rs. 10000, or when the Court which pronounced the judgment or order, declares that the case is a fit one for appeal.

The Charters of the Hgh Courts give a right of appeal in any matter, not being of criminal jurisdiction, from any final judgment, decree, or order of those Courts made on appeal, or made in the exercise of original jurisdiction by a majority of the full number of