

Welfare of prisoners: Prisoners are given training in some trade or handicraft as a step towards their rehabilitation. However the number of prisoners fit to work is not considered adequate enough to set up any industrial unit in the Central Prison. Hence even the equipments and machinery acquired for a bindery were transferred to the care of the Government Press.

Every prisoner is free to follow the tenets of his own persuasion. Moral discourses are arranged from time to time for the benefit of prisoners. Catholic prisoners are allowed to hear Holy Mass offered by a visiting priest. The sisters of St. Joseph de Cluny visit the female prisoners.

By way of recreation, the prisoners listen to the radio or read newspapers and magazines. The Central Prison in Pondicherry is provided with a library. Film shows are also arranged from time to time for the benefit of the prisoners.

Except Dhanwantarinagar police station, all other police stations and out-posts in the Territory are provided with lock-up rooms. In Dhanwantarinagar it is housed in a residential building where one of the rooms is utilised as lock-up. Wherever possible, separate lock-ups are provided for males and females. Where there is only one lock-up room females are kept separate. The doors of lock-up rooms are normally provided with iron-bars through which the guard is able to maintain a watch over the prisoner's activities. These precautions are taken to ensure that the prisoners do not indulge in any mischief or attempt to commit suicide. Unless authorised specifically by an order of a competent Magistrate, a prisoner cannot be kept under police custody for more than twenty-four hours.

IV. Administration of justice

Introductory :

There is very little of reliable information about administration of justice in the olden days in the areas which comprised the French Indian establishments in the south of India. It is generally assumed that the administration was the same as that obtained in the neighbouring regions. It may be reasonably assumed that when Pondicherry was under the Pallavas or the Cholas, the rulers set up the same administrative machinery for Pondicherry as they did for contiguous areas and the same laws also were administered. We have some material on administration, including that of justice, under the Pallavas

and the Cholas. We have greater details about administration in the Vijayanagar empire, of which Pondicherry formed a part. The available documents and other materials do not specifically refer to Pondicherry. We have however, the Bahur plates which refer to a *Vidyastana* (college) at Bahur, near Pondicherry. It would appear that legal education was accorded due importance in ancient days in this Territory. The *vidyastana* may have been in existence as early as the eighth century. A verse in the Bahur plates mentions *chaturdasaganaakula* as comprising the curriculum of studies in the college. It is generally recognised that one of the *chaturdasa vidya* was *dharma sastra*, the science of law or justice.⁹³

During the period when Chola kings held sway over South India, there existed another college at Tirubhuvanai near Pondicherry. Its curriculum of studies appears to have included the laws of Manu (*Manusastra*) indicating thereby, in all likelihood, that those laws were in force in the Territory.⁹⁴

From sources like inscriptions and other contemporary records including literary works, we are able to gather some information about the administration of justice under the Chola kings. It would appear that most disputes were decided by village assemblies. As no distinction was made between civil disputes and criminal offences, both were tried by these assemblies, at least in the first instance.⁹⁵ As Nilakanta Sastri says, "The village assemblies..... settled, sometimes by means of small committees of *nyayattar*, affairs that did not fall within the jurisdiction of the occupational or voluntary groups in the locality."⁹⁶ Disputes in general were sought to be settled by arbitration; there were instances where even criminal offences were compounded by arbitration.

Among the grave offences to be visited with severe punishment was treason against the king or the state. This crime comprised, among others, such acts as murder of the members of the royal family, non-payment of fines imposed by the king, persistent efforts to disturb the king's peace and to create disorder in the realm, violation of royal grants, and failure to pay expenses incurred for the conduct of worship in temples.⁹⁷

All treason against people's organisations like the *grama* and the *nadu* was not only disapproved but was even thought of as more heinous than treason against the king. The heinousness ascribed to *gramadroha* is evident from the fact that in the days of Chola King Rajaraja-III some land set apart for house sites for the maintenance of *padikkappar* was declared inalienable except for *gramadroha*.⁹⁸

Some interesting light is thrown on the administration of justice under the Chola kings by the Chinese writer Chau Ju-Kua. He says, "When any one among the people is guilty of an offence, one of the Court Ministers punishes him : if the offence is light, the culprit is tied to a wooden frame and given fifty, seventy or upto hundred blows with a stick. Heinous crimes are punished with decapitation or by being trampled to death by an elephant."⁹⁹

Despite Chau Ju-Kua's testimony, we have inscriptions which indicate that fines were the usual punishment for most of the common offences.¹⁰⁰ Even manslaughter and murder were punished only by the convict being required to keep a lamp perpetually lit in a neighbouring temple.¹⁰¹ Rajendra-II himself in one instance recommended the endowment of 96 sheep for a lamp in a temple as punishment for murder.¹⁰² However, a judge's statement at a trial for homicide in the reign of Kulottunga that the guilty person need not die for his offence may point to the fact that homicide was not regarded as an offence deserving capital punishment. This inference is strengthened by another recorded instance of a trial for homicide where the accused was a *vellala*, and the *bhattas* advised that a *vellala* should not be sentenced to death.¹⁰³

Sekkizhar's Periyapuranam gives details of a trial in a court of law and his account may be regarded as indicating the procedure followed in a Court during the days of the Cholas as the author is believed to have been a contemporary of Kulottunga-II. The plaintiff first stated his case before the *sabha* of learned Brahmans. His submission was that the grandfather of the defendant had executed a bond the tenor of which was that the grand-father and his descendants would be perpetual slaves of the plaintiff. The defendant who was taken by surprise claimed that he was an *adisaiva* and this was something of which judges had personal knowledge.¹⁰⁴ The plaintiff was asked to prove his claim employing one of the three methods permitted by law, i.e. by proving usage, by producing documents or by the testimony of eye-witnesses. He produced the original document. Its authenticity was verified by ascertaining its age by examining the signatures of the witnesses and especially by comparing the handwriting of the document with the handwriting in a document taken out and produced from the record office and known to have been written in the hand of the grand-father of the defendant.¹⁰⁵

A record of 1178 A.D. from Managoli in the Bijapur District may be regarded as illustrative of the law of succession followed in the Deccan during this period.¹⁰⁶ The record is to the effect that "at Manigavalli, if anyone

should die without sons, his wife, female children, divided parents and brothers and their children and any kinsmen and relatives of the same *gotra* who might survive should take possession of all his property and if none such survive (the village authorities) should make over that property as a religious grant to those who hold the grant of the gods."¹⁰⁷

We have some information about the organisation of courts of justice under the Vijayanagar rulers. The king was regarded as the chief judge.* Mahalingam states that "we have good evidence to indicate that provincial governors held their own courts in their areas as the king did at the capital, regardless of whether a judge held court at the same place or not."¹⁰⁸ We have however, no information about the distribution of judicial work between the king and the other judges at the capital. The same scholar gives instances of the king hearing and deciding a case at first instance, though in general, he may have been hearing appeals from the decisions of other judges.¹⁰⁹

At provincial courts the king's agents or Governors dispensed justice. In the outlying parts of the empire, there were popular courts such as those of village assemblies, temple trustees, and caste elders.¹¹⁰ Village courts were manned by the village *mahajanas* and caste courts by the elders of the caste. Similarly leaders of the guild manned the courts of the guild and temple trustees decided disputes in their courts.

* Krishnadeva Raya's *Amuktamalyada* prescribes as one of the duties of the king that he should hear complaints from people in distress and redress their sufferings. But he himself did not dispense justice in all cases brought before him. There was a judge who administered justice on his behalf. According to Mahalingam it was the *pradhani* who actually acted as the Chief Judge. (T.V. Mahalingam : Administration and Social Life under Vijayanagar, p. 111). *Pradhani* was evidently a minister of the King. Mahalingam surmises from a statement of Abdur Razak to the effect that the "Danaik reports upon the affairs of the state to the King", (Elliot : *History of India*, IV, p. 108 quoted in Mahalingam op. cit., p. 111) and that there was a fusion in the *pradhani* of judicial and executive functions.

Speaking of procedure, Mahalingam thinks that civil disputes were generally settled by arbitration, though there appear to have been special judges for deciding civil cases, especially at the capital.¹¹¹ He gives a number of instances of disputes settled by arbitration. Sadasiva Raya referred a dispute of two parties of residents of Kondagai to be settled by the arbitration of learned men in the presence of Saluva Nayaka.¹¹² Similarly, an officer who had jurisdiction to try a case might request a body of persons to conduct the trial on his behalf.¹¹³

We have some evidence to show that appeals from the people's courts lay to the courts of the king.¹¹⁴ Trials by ordeal were not unknown during the period.¹¹⁵ If dissatisfied by a decision of the popular assembly, appeal to ordeal was sometimes made, especially when a decision centred on the truth of an alleged fact, as is seen from an inscription of 1664 found at Abhinahole, in the Hiriyr Taluk.¹¹⁶

In the Vijayanagar empire, as in almost all monarchies, ancient and modern, treason against the king or the state was regarded as a heinous crime. Krishnadeva Raya in his *Amuktamalyada* prescribes immediate execution as punishment for treason. Disloyalty to associations (*sangha*) and the community as a whole (*samudaya*) was totally disapproved.¹¹⁷ Treason, however, assumed a different connotation in certain circumstances in the empire. It is recorded that two sects in Vridhachalam met and made a declaration that those who assisted the king's officers who oppressed the people should be treated as traitors and stabbed. Ninety-eight subsections of the sects made an agreement among themselves that they would not submit to unjust taxation and declared certain acts as amounting to *nattudroham* (treason against the country) to be visited with punishment.¹¹⁸ The view that obedience to government which oppressed the people or which did not care for the welfare of the people, constituted treason against the state was a refreshing and salutary gloss put on the concept of treason.¹¹⁹

It may be a little imaginative to surmise, from the records available, that the law in force in the empire had a rule of prescription corresponding to what we are accustomed to in modern states.¹²⁰ According to an order issued by a subordinate of Sri Ranga-III, *Kapus* who had held temple or Brahmin land on mortgage by possession were required to restore the lands to the original owners without claiming any money from them after a period of

twelve years.¹²¹ It would appear that no rule relating to prescription, if such a concept formed part of the jurisprudence of the empire, could be derived from this order.

In criminal cases a rough and ready procedure appears to have been adopted. Nuniz speaks of the aggrieved person making his complaint direct to the king who settled it there and then and ordered the captain who accompanied him to do immediately what the complainant requested.¹²² The king occasionally acted as accuser as well as judge. Krishna Raya, for instance, blinded and imprisoned his minister Saluva Timma and his sons on suspicion of their murdering the king's son Tirumala.

Village assemblies, temple authorities and provincial governors also exercised criminal jurisdiction. An inscription in the Chingalpattu District describes how a case of theft was tried by temple authorities. One Aindan was accused of having deprived God Kunravanaperumal of 150 *pon* from his garland. A collegiate court consisting of not less than twelve members tried the fugitive Aindan *in absentia* and pronounced sentence.¹²³ Local residents (*nattars*) also sometimes tried criminal cases.

There appears to have been occasional recourse to trial by ordeal in criminal cases also, where there was no reliable human evidence available. Nicolo dei Conti says: "In criminal charges oaths are allowed, when there is no witness to prove the offence."¹²⁴ All the modes of oath taking described by dei Conti were in no way different from trial by ordeal. It would seem from his description that a person charged with an offence had to prove his innocence by going through one of the hazardous modes of taking oaths. For instance, dei Conti speaks of "he who swears that he is innocent of the offence charged against him plunges two fingers into [boiling] butter." It would appear that while in civil suits the plaintiff had to prove his claim against the defendant, the position of the accused in criminal trials was not available, as he had, in most cases, to prove his innocence.¹²⁵ It may however be recalled that it was the village assembly, or the elders of the community to which the accused belonged, that tried him and that they had some knowledge of the circumstances in which the offences had been committed. When a reference was made to the king's court it was generally for the determination of punishment rather than for the determination of issues. "In India", as Mahalingam observes, "administration of justice really meant the

finding out of truth and was a sacred and religious duty imposed on the Kings.”¹²⁶ According to Varadachariar, this is made abundantly clear by numerous texts which declare that by miscarriage of justice the king will not only lose the goodwill of his subjects, but will also incur punishment for his sin.¹²⁷

Punishments for criminal conduct were very severe under the Vijayanagar rulers. Nuniz testifies that “for a thief whatever thefts he commits, however little it be, they forthwith cut off a foot and a hand and if this theft be a great one, he is hanged with a hook under the chin.”¹²⁸ In a case of theft of temple jewellery, the convict was first imprisoned and later banished from his village, with one of his hands chopped off and his lands confiscated.¹²⁹

Sometimes criminals were tortured to death.¹³⁰ Treason was punishable with death. According to Abdul Razak, those who plotted against the life of Deva Raya-II were all put to death. Krishna Raya had laid down a guiding principle: “In the matter of people sentenced to death, give them the chance to appeal thrice (for mercy). But in the case of those people whose escape might bring on a calamity to yourself, immediate execution is advisable.”¹³¹

Apart from capital punishment, there were the common punishments of the times, like mutilation, forfeiture of property, fines, and ex-communication from caste.

Compensation appears to have been sometimes paid to the victims of crime. The children of Gaudayya, whose murderer was tortured to death as a punishment, were given Cikka Gangur as a *nettara godage*.¹³²

One inscription found at Basrur in the South Canara District speaks of something akin to blood money, though it is referred to as atonement (*prayas-citta*). Atonement by way of a gift of money was made in the instant case for the murder of two men.¹³³

It would seem that the state itself was willing to pay compensation if it happened to do injustice to the citizens. *Epigraphia Carnatica* relates an instance of the state compensating individuals for injustice done to them by the state.¹³⁴ Though the king was inclined to act as accuser and judge in his own cause, perhaps because all executive power as well as ultimate judicial

power vested in him, the willingness of the state in paying compensation to the victims of its own acts of injustice bespeaks a sincere attempt at conscientious administration of justice, even if it is not considered indicative of a cool protective shade of what we may now call the rule of law.

In some of the procedures followed, and the punishments inflicted, if not generally in the administration of justice, the French appear to have taken a leaf, or rather a few leaves, out of the Vijayanagar books, including, perhaps more than metaphorically *Amuktamalyada*.

Administration of justice from 1701 to 1793 :

Conseil Souverain : The earliest machinery for administration of justice set up by the French on the sub-continent appears to have been the Sovereign Council (*Conseil Souverain*) established in Surat by a royal edict of 1671. An edict of February 1701, promulgated by Louis XIV, established a similar Council in Pondicherry¹³⁵ with jurisdiction in civil and criminal matters over those who "live or are going to live in the fort and town of Pondicherry and its dependencies as well as in the settlements of Houghly, Balasore, Kassimbazar, Kaveripatanam, Masulipatnam and others that could be subsequently founded in the whole kingdom of Bengal and all along the Coromandel coast"¹³⁶

The Council was composed of Directors General of the French East India Company and in their absence, of the Directors of the establishment at Pondicherry and the merchants of the company residing in the establishment. The *Conseil Supérieur* (another body with local jurisdiction) deliberating with capable and honest French merchants and tradesmen, who would be invited to participate, handed down decisions in both civil and criminal matters. A bench of three judges was required in civil cases and of five at criminal trials. Provision was made in the edict for administration of justice in certain subordinate establishments by constituting as a court of first instance the head of the establishment sitting with two notable and honest French residents, in civil matters and with four for criminal cases. Appeal lay from the decisions of these courts to the *Conseil Souverain* in Pondicherry.¹³⁷ We shall have occasion to deal with those provincial councils later on.

Each of the councillors of the **Conseil Supérieur** had some special function assigned to him. Thus the first councillor, who officiated for the Governor in his absence, was the President of the choultry court. In spite of the administrative work he was entrusted with, especially during the Governor's absence or illness, he also sat as a judge in the Sovereign Council. The second was Commissioner (**Commissaire**) of the army, the third was in-charge of stores, the fourth of armaments and the fifth acted as **Procureur Général**. Neither these functions nor the number of councillors was rigidly fixed. We find the number of the councillors varying from six to nine, all vested with administrative and commercial duties. However, they all sat by turn as judges in the Sovereign Council which held a weekly session on Tuesdays. 138

The company exercised the right to remove the councillors appointed by the king without assigning any reason. All that they were required to do was to fill the vacancies by appointing other councillors so that administration of justice was not brought to a stop for want of personnel. The Sovereign Council, in its turn, would occasionally refuse to recognise councillors appointed by the Company. 139

It appears that the company, instead of adhering to any principle of separation of powers actually favoured a fusion of functions as being expedient to promote its commercial interests. The court of justice was therefore required to function as an administrative council as well.

Because of the overriding powers exercised by the Governor, and the conspicuous absence of the principle of separation of powers, administration of justice did not always run smooth. There were clear instances of the Governor's arbitrary interference with the course of justice. One such was the case of the administrator of Chandernagore who was charged with a criminal offence. The **Conseil Supérieur** authorised the prosecution of the administrator; the Governor thereupon quashed the order of the **conseil**. The case however was dropped as hostilities soon broke out.

The fusion of functions necessitated the elimination of assessors in the tribunals. It was not improbable that assessors could have interests and views different from those of the company. To compensate for the absence of assessors, new councillors were appointed and their number was increased in subsequent years to form provincial councils (**conseils provinciaux**) which functioned as a court in place of the tribunals set up by the edict of 1701 in the various subordinate settlements.

After the capture of Pondicherry by the British in 1761 the company which had fallen on evil days resolved to relinquish all its property in favour of the King of France with the understanding that he would pay its debts. By an order of 8 April 1770 the king took over the possessions of the company. He permitted free trade in these possessions to all his subjects. As administration by the company ceased to exist, the **Conseil Supérieur** and the other provincial tribunals also ceased to exercise administrative functions. They once again became pure judicial bodies rendering justice to the subjects of the king. The reorganisation of the **conseils** was effected by a royal edict of 30 December 1772. According to the edict, the **Conseil Supérieur** which would render judgment in the last instance was to consist of the commandant general of the French Establishments and a **Commissaire Général Ordonnateur** (and in their absence those who officiated for them) and prominent French merchants and businessmen who could be co-opted, three for civil cases and five in criminal matters.

A royal edict of February 1776 reiterated the purpose for which the **Conseil Supérieur** and the Tribunals of First Instance were set up in the French **Comptoirs** by the edict of 1701. It stressed the fact that they were set up for the sole purpose of dispensing justice to the subjects of the King. Turning the **Conseil Supérieur** into an administrative body while retaining its functions as a court was a development not envisaged in 1701. The company thought it was better in its own interests if the tribunals concerned themselves with the affairs of the administration and commerce as well as matters of justice. The declaration of 30 September 1772, however, restricted the functions of the **Conseil Supérieur** and the other tribunals to those of rendering justice. But membership of the **conseil** was found inadequate and frequent interruption of its sessions affected the smooth and prompt running of the company's commercial activities; it was therefore considered necessary to reconstitute the **conseil**. The edict of 1776 abolished the existing council and established a new **Conseil Supérieur** to render justice, civil as well as criminal, with no cost at all, to all the subjects of the king, who had settled and who might settle in the French possessions in the south of India as well as in other parts of Asia. The **conseil** was to consist of the **Commandant Général**, an **Intendant**, or **Commissaire Ordonnateur**, a senior **Officier d'Administration**, who had the rank of **Commissaire** of the navy, seven permanent councillors, one **Procureur Général** and one chief **greffier**, two assessors, an alternate **procureur (substitut)** and a **commis-greffier**. The councillors, **Procureur Général** and the **greffier** were to be appointed by the king; but the administrators were authorised to appoint a

temporary greffier if any vacancy arose for that position. They could also appoint temporarily the substitute of the **Procureur Général**. The **commis-greffier** could also be appointed by them on the recommendation of the chief greffier, with the approval of the company. It was stipulated in the edict that when trying criminal cases, the council should have seven members present and when deciding civil disputes, the membership should be five. The assessors were to participate in the deliberation only in those cases where they acted as **rapporteur**. They could, however, take part in deliberations if the number of permanent councillors present was inadequate and major issues had been set down for decision. It was also provided that the alternate **Procureur Général** as well as the chief **greffier** could also act as judges in case of inadequacy in the number of judges. The king's recognition of the need to maintain the collegiate principle as well as his serious concern for the speedy dispensation of justice was emphasised in the authorisation given to the **Conseil** itself to invite notables to complete the required number of judges fixed by the edict, if the services of the officers designated could not be made available.

The council was given jurisdiction to try and decide in the first and last instance all charges and disputes between the King's subjects in Pondicherry and its dependencies, except for those matters which were expressly given over to the jurisdiction of other judges. The Council was also to decide in the last instance appeals from judgments rendered in civil and criminal matter by the Tribunals of First Instance in the other territories (**comptoirs**) in India.

The law to be applied was indicated in the edict by stipulating that the **conseil** was to conform, in its judgments and in its proceedings to the customs of Paris, to the special laws made and to be made for India, and to the provisions of the Ordinance of 1670; in all criminal matters, and in all matters (**les affaires criminelles et en toutes matières**) it had to conform to the laws and ordinances issued for the kingdom in general.

A familiar provision applicable to other **comptoirs** in India was reiterated in the edict. It was provided that **Commandants** and **Commissaires** in some of the **comptoirs** and heads of **comptoirs** where there was no **Commandant** or **Commissaire** would continue to dispense justice in the first instance. The officers mentioned above could invite three notables when deciding civil disputes and five when trying criminal cases. The decisions of these tribunals were

subject to appeal to the **Conseil Supérieur** at Pondicherry. The judgments pronounced in civil matters could, however, be executed, notwithstanding the appeal and without prejudice to it, by furnishing good and sufficient security.

The organisation envisaged in this edict was short lived. With the passage of a few years, a new set up was contemplated and provided for by law.

An edict of 1784 reorganised the judicial system in the establishments, generally restoring the position envisaged in the edict of 1701. This reorganisation was induced to a great extent by considerations of economy. The preamble of the edict set out that the king had recognised that the nature of litigious matters in India and the smallness of the area comprising the immovable properties belonging to the king's subjects settled there, required only, even during the period of prosperous trade in India and for a long time, a **Conseil Supérieur** consisting of merchants and French notables who could be called in sufficient number to render justice under the authority and with the assistance of the chiefs of commercial administration. Later on, impelled by a sense of uniformity and the desire to render the proceedings of the tribunal more continuous, the **Conseil** was abolished in 1776 and a new **conseil** consisting of permanent judges was established as in other colonies. It would appear that on further consideration, the king was convinced that by constituting the **conseil** as had been done before 1776 there could be prompt, simple and exact dispensation of justice with less burden on the finances of the establishments. The edict therefore abolished the **Conseil Supérieur** as set up by the edict of February 1776. In its place a new **Conseil Supérieur** was established, consisting of the Governor or **Commandant Général** or **Intendant** or **Commissaire Général Ordonnateur**, and in their absence, those who officiated for them, of a senior officer in the administration, of French merchants and notables of no less than 25 years of age who could be summoned to deliberate with the rest in dispensing justice. The **conseil** was given jurisdiction to try all disputes between inhabitants and residents of the town and Fort of Pondicherry, with three judges hearing civil cases and five trying criminal cases. The same number of judges was to hear appeals preferred to the **conseil** from other tribunals in the Establishments. All matters left to the exclusive jurisdiction of the administrators under the provisions of the edict of February 1776 were excluded from the purview of the **conseil**.

The edict authorised the Governor or **Commandant Général** or his representative to defer until receipt of the king's orders, the execution of sentence of death, in case the Governor, the **Commissaire Ordonnateur** and the **Procureur** unanimously considered that the convict could be pardoned or the sentence commuted. The **Commandants** and **Commissaires** in the territories and other chiefs where there was no **Commandant** or **Commissaire** were empowered to render justice in the first instance co-opting three notables in civil cases and five in criminal trials. Their judgments were subject to appeal to the **Conseil Supérieur** at Pondicherry. In civil cases, however, the judgments were provisionally executory notwithstanding and without prejudice to appeal provided good and sufficient security was furnished.

Provincial Councils : It may be recalled that the edict of February 1701 while establishing a **Conseil Souverain** for Pondicherry, also set up subordinate councils in the other Establishments. The chiefs of the Establishments, deliberating with notable and honest residents, three in civil matters and five in criminal cases—were empowered to administer justice in the first instance in their respective regions. From their decisions, appeal lay to the **Conseil Souverain** in Pondicherry. Notwithstanding the filing of an appeal, judgment rendered in the first instance could be executed, without prejudice to the appeal, on furnishing security. The provincial councils had a **Procureur du Roi** who exercised the same powers and functions as the **Procureur Général** attached to the **Conseil Supérieur**.

As the number of titular councillors who replaced the assessors was increased, provincial councils were formed in order to exercise the judicial functions conferred on the Chief of the settlements by the edict of 1701. In an attempt to restrict to the councils their exclusive judicial function as contemplated by the edict of 1701, King Louis by his edict of 30 December 1772 provided that the **Commandants** and **Commissaires** in the settlements dependent on Pondicherry and the chief of the settlements where there were no **Commandants** or **Commissaires** should administer both civil and criminal justice in the first instance, with the assistance of prominent merchants and businessmen, who could be co-opted, three in civil matters and five in criminal cases, to form the tribunal. This was virtually abolition of the provincial councils, substituting for it the **Commandants** and **Commissaires**. In spite of the avowed purpose in promulgating the edict, which was to invest the council exclusively with judicial powers, it is clear that by leaving those powers in the hands of administrative

officers who could select any three or five persons of their liking, judicial and executive functions were again being given to the same persons. Under the edict of 1701 as it was actually brought into operation, the same body of persons carried on both executive and judicial functions. Now it is practically a single member of the executive who carried out judicial functions, though assisted by a few persons of his choice. The saving grace of the edict was the provision for appeal to the Sovereign Council in Pondicherry from the decisions of these provincial tribunals.

The Choultry Court : With a view to dispensing justice to the indigenous population a court called **Tribunal de la Chaudrie** (Choultry Court) ¹⁴⁰ was established in Pondicherry in 1728. It was composed of a civil lieutenant and two assessors, two clerks, one European and the other Indian, an Indian **huissier** (process server) and four interpreters.

The court was required to administer justice to Indians according to their own laws and customs. The French administration had from the very early days guaranteed to the indigenous population the preservation of their laws and respect for their customs. ¹⁴¹ The establishment of the choultry court was to help administer their own laws to the Indians. The tribunal was presided over by the second member – the first councillor – of the **Conseil Souverain**.

While the **Conseil Souverain** followed in civil cases the procedure laid down in the ordinance of 1667, exact knowledge is lacking about the procedure followed in the choultry court. ¹⁴² The court's procedure in criminal matters is, however, known to have been very summary in character. ¹⁴³ At a trial which followed the filing of a complaint or report, the necessary investigation was made, and sentence pronounced ; the sentence was also executed while the court was in session. ¹⁴⁴

It was the common offences committed by Indians which were tried by the choultry court. The jurisdiction of the **Conseil Souverain** extended to the trial of serious crimes committed by Europeans as well as Indians. The punishment which could be imposed on the Indians were the following : (i) corporal punishments laid down in the ordinances and mutilation of the ears, (ii) slavery for a fixed period or in perpetuity in the islands of Bourbon and Ile de France, (iii) fines, (iv) confiscation, (v) banishment from the territory (vi) flogging with *chabouc* or whipping. These punishments could be imposed cumulatively. It appears that whipping was regarded as a compulsory accessory to all other punishments. ¹⁴⁵

When Law de Lauriston was Governor, he effected certain reforms in the constitution of the choultry court as well as in the law applicable to Indians. An **arrêté** of 30 December 1769, sought to reorganise the court and the policing of the town. The court was now composed of a councillor of the **Conseil Souverain** who was its **Président** and two subdealers who acted as assessors. The presence of the President was essential to render a judgment valid. If one of the subdealers was absent the other two members including the **Président**, could try and judge cases ; even if both were absent, the **Président** alone could function as a court. A majority of votes determined an issue ; if there was an equal division of votes as when the **Président** and one assessor formed the bench, the voice of the **Président** prevailed. The judgments were, however, unanimous in that all the judges signed them. Two interpreters, one of whom was to be a Christian, were attached to the choultry court. There was, however, no officer of the public ministry (**ministère public**) at the court.

The court was given jurisdiction to judge not only disputes between Indians, but also between Indians and Europeans or Franco-Indians (Topas). 146

By a regulation of 18 November 1769, Law de Lauriston limited the right of appeal from decisions of the choultry court to suits whose value was not less than 50 pagodas. It was also required that the appellant furnish a security (fine) proportional to the value of the suit. It was fixed that 25 pagodas were to be deposited when the value of the suit was 50 pagodas, 33½ pagodas when the value was 100 pagodas, 50 when it was 200 pagodas, 80 when the value was upto 1000 pagodas and one-tenth of the sum when the value was above 1000 pagodas. In case the appeal failed, the amount of the deposit was confiscated to the company.

The production of new documents at the appellate stage was, in general, prohibited. If, however, the appellant produced such a document, and the **Conseil Souverain** was satisfied that it could have been produced before the Court of First Instance, the **conseil** would accept it only on payment of an arbitrary fine which was imposed on him. Clearly, all these provisions were intended to discourage appeals, except where important issues were involved.

The regulation of 30 December 1769 laid down certain procedural rules in regard to time-limit for filing appeals from the decisions of the choultry court. Appeals were required to be filed with the **Conseil Supérieur** within three months from the date the judgment of the choultry court was read out

to the parties. Within six weeks of filing the appeal, it had to be followed up in the **Conseil Supérieur**; otherwise it was liable to be declared as abandoned. The value of a suit for its being taken up in appeal in the last instance was fixed at Rs. 200 (480 francs) the fine for frivolous appeals was fixed at Rs. 100 (240 francs) irrespective of the value of the suit. The appellant was also required to deposit in the choultry court the whole amount he was adjudged liable to pay; in case of default of deposit, appeal was not to be entertained.

Advisory Chamber : A regulation of 27 January 1778 provided for the establishment of an Advisory Chamber (**Chambre de Consultation**) in Pondicherry. It consisted of eight Indians of not less than 25 years of age known for their integrity and their knowledge of the 'usage and customs' of the country and of the different castes so that they would be in a position to express an opinion on matters referred to them. They were to be appointed by the Chief Administrators of the colony. They were to meet at the choultry court as often as necessary to deliberate and decide on matters referred to them for consideration by the **Conseil Supérieur** or by the civil lieutenant or by the police lieutenant. In reaching a decision, the chamber was expected to conform to the laws, manners and customs of the country if the matter related to marriage, inheritance, wills and partitions or to rights and privileges of the castes, temples or endowments. When a matter relating to a relative of a member was referred to for the opinion of the chamber, that member was required to withdraw from deliberation. This obviously was to avoid any possible intrusion of bias in the decision. A further salutary check was placed on the members by the prohibition enacted in the regulation that neither the chamber nor any members of it should ask for or receive anything, for whatever reason, from the parties whose cause was referred to the chamber for its opinion. Any infringement of this prohibition would attract exemplary, deterrent punishment.

The regulation also imposed on the chamber and on each of its members the useful task of preparing a code of Tamil laws and a compilation of native customs including those peculiar to each caste, so that the courts would be enabled to decide disputes uniformly at all times.

The chamber functioned for about 40 years when it was abolished in October 1827 and was later replaced by the Advisory Committee on Indian Law in 1828.

The British interlude :

A colonial assembly consisting of 21 members set up in the establishments in the wake of the revolution in France decided to have only one tribunal in Pondicherry for civil cases. The **Conseil Supérieur** was to consist of a **Président**, four Councillors, four assessors, one **Procureur Général**, one alternate **Procureur**, one **greffier**, and two assistant clerks. This council could not function long, as Pondicherry was captured by the British on 21 August 1793.

For twentythree years, from 1793 to 1816 when Pondicherry was under the British, laws in force before the capture of the Establishment were continued in operation. For nearly four years, judicial organisation also underwent no change. In 1796, however, the British Governor suspended the work of the courts. But in June 1797 the courts were re-established, with some modifications in their organisation. The **Conseil Supérieur** was to have now five councillors; one of them to be appointed by the Government of Madras was to be the President. The **Procureur Général's** office was retained. The jurisdiction of the **conseil** was limited territorially to the four establishments in the Presidency of Madras. It was not given jurisdiction to decide disputes between British subjects or try cases relating to public revenue. It was also enjoined from trying cases against French factories except those under the immediate protection of the British Government. Instead of the first councillor presiding over the choultry court, the work was now shared among the four councillors, who presided over it, each for three months a year. The Government of Madras set up a court of revision or **cassation** consisting of the commandant of Pondicherry, the **Président** of the **Conseil Supérieur**, the seniormost member of the **Conseil Supérieur**, and two prominent residents. It was a court of appeal rather than a **cour de cassation**. When sitting to hear a petition for revision it was necessary to have a bench of three judges, one of them being either the commandant or the President of the **Conseil Supérieur**. It could quash the impugned decision ; it could also retry a case. It however, did not entertain petitions for revision of judgments given in appeal by the **Conseil Supérieur** from decisions of the choultry court.

A Court of Administrators was constituted to decide disputes between French residents, creoles or foreigners. It was composed of the Commandant of Pondicherry and the **Président** of the **Conseil Supérieur**. Appeal from its decision lay to the Governor in Council in Madras. British subjects were excluded from its jurisdiction.

Pondicherry was restored to the French by the Treaty of Amiens (1802). After it had again fallen into the hands of the British, in 1805, a Court of Judicature, in place of the **Conseil Supérieur**, was established by the Governor of Madras.¹⁴⁷ This court consisting of three judges and two assessors dealt with disputes of a civil nature between Europeans and between Europeans and Indians. The function of the assessors was advisory. If a judge was absent, one of the assessors could take his place. The collegiate principle was recognised in that it was required that a judgment had to be passed by a bench of three judges. The three judges and two assessors could also constitute a court to try criminal cases when the offence was alleged to have been committed at Pondicherry or at one of its nine dependant villages. In these trials, the assessors had the right to participate in deliberations along with the three judges. The number of judges in criminal trials was to be at least five, but in special circumstances it could be seven by co-opting two or more assessors. In case five members of the court were not available, the three principal judges were empowered to choose one or more assessors from among the respectable European residents. The court was to meet three times a year to try criminal cases, on the first Mondays in April, August and December. No sentence of death was permitted to be carried out without the prior approval of the Governor in Council in Madras.

Article 7 of the regulation of 5 May 1805 which set up the Court of Judicature expressly stated that the formal procedure of the court should be as far as possible, those of the former (French) court in Pondicherry and the laws, customs and usage previously in force would be generally regarded as the principles on which the Court of Judicature should base its procedure and regulations and that its decisions should be regulated according to them.

The practice of appointing assessors in the choultry court was discontinued by the British Administration as early as June 1795. Ten years later, the choultry court was abolished. All disputes between Indians where the value of the claim did not exceed ten pagodas could be decided and settled in the last instance by the chamber. When the value exceeded that amount, it was necessary to obtain the confirmation of its decision by the Court of Judicature.¹⁴⁸ The parties nominated their own arbitrators and agreed to abide by their decision. When the arbitrators thus nominated could not agree, a third arbitrator was appointed. The party in whose favour a decision was made approached the Court of Judicature for its approval of the decision. Approval by any one of the judges carried with it the full force and authority of the court.¹⁴⁹

Further a few police regulations were adopted on 15 May 1805.¹⁵⁰ It provided, among other things, that all civil disputes among Indians for amounts not exceeding ten pagodas should be decided without any possibility of appeal by arbitration at the bureau of the police. It also made a not altogether different provision in regard to civil suits in which the value of the claim exceeded ten pagodas. It was laid down that all civil suits between Indians or between a European plaintiff against an Indian defendant for the recovery of debts by promissory notes, deeds, acknowledgment deeds, statement of accounts, business operations etc., when the amount of the claim exceeded ten pagodas, should be settled by arbitration at the bureau of the police. The parties could choose their own arbitrators, and had to give an undertaking in writing that they would abide by the decision of the majority as was "the practice in such cases" (*comme il est d'usage en pareil cas*). In case there was an equal division of votes, the decision of an umpire chosen by both the parties would be regarded as final. In the case of disputes involving certain aspects of personal law the decision had to be arrived at by the heads of the caste to which the parties belonged. Thus it was provided that all disputes and differences between Indians regarding contracts of marriage and succession should be brought before the bureau of the police and the chief of the police would summon the heads of the parties' caste to decide the issue according to their own laws and customs. The parties themselves could also choose no more than six respectable persons from their caste to settle the disputes. Here again the parties were required to give a prior undertaking that they would abide by the decision reached by the heads of the caste or the respectable persons chosen by them, whichever was relevant in the particular instance.

It may be worth repeating that during these years when certain organisational changes were effected, Indo-French law continued to be administered by the British so that when Pondicherry was restored to the French in 1816, no lack in the continued operation of the law was felt.

Judicial organisation after 1816 :

A historical perspective :

On 8 February 1817 the **Conseil Supérieur** and the provisional councils were re-established by the French. In 1819, a change in the name of the council was made; it was to be called Royal Court. More substantial changes were effected in later years.

A royal ordinance of 23 December 1827 effected certain substantial changes in the judicial organisation of the establishment. It established at Pondicherry a Court of the Justice of the Peace with jurisdiction over Pondicherry and its three dependencies. The court was composed of the Lieutenant of Police who acted as judge, an alternate judge and a **greffier**. The court functioned as a Court of the Justice of the Peace in civil disputes and a police court in criminal cases involving minor offences (**contraventions de police**). The functions of the **ministère public** were to be performed by the Inspector of Police when the court sat as a police court.

The ordinance also set up a Tribunal of First Instance at Pondicherry with the same territorial jurisdiction as that of the Court of the Justice of the Peace. The tribunal consisted of a king's judge and two **juges auditeurs** (assistant judges). Attached to it were a king's procureur, two **greffiers**, one European and the other Indian and a clerk. In case of absence or inability of the king's judge to attend to his work, a **conseiller auditeur**, appointed by the Administrator General was to officiate for him. It had jurisdiction to decide in the first and last instance civil actions, personal or pertaining to movables, where the principal value of the suit was now below 48 francs (Rs. 20) and did not exceed 480 francs (Rs. 200) and commercial actions where the value did not exceed 480 francs. It heard and decided in the first instance civil cases relating to real property and mixed actions, as well as personal actions and those relating to movables where the value of the suit exceeded 480 francs.

It had already been laid down by an ordinance of 26 May 1827 that the Lieutenant of Police could deal with the following matters, with no possibility of appeal, when the value of the suit did not exceed Rs. 10 (24 francs) and with possibility of appeal when the value of the claim exceeded that amount : (i) action for damage caused either by men or by animals to fields, fruits and crops; (ii) shifting of boundary marks, encroachment on lands, trees, trenches, and other enclosures committed during the year, encroachments upon rivers used for irrigation of fields committed during the year and all actions for possession; (iii) repairs incumbent on the tenant; (iv) compensation claimed by tenant farmer or lessee for non-enjoyment when the right to compensation was not disputed and dilapidation (**dégénération**) alleged by the owner; (v) payments of workers' wages, servants' wages and execution of the respective undertakings of masters and of their servants or workers and (vi) civil actions for slander, brawls, assault and battery.

The same ordinance had also provided that disputes arising between Indians on personal matters, chattels, or commercial matters and disputes in which one of the parties or both were foreigners not domiciled in the territory could be brought before the police court (**tribunal de la police**) irrespective of the value of the claim for being tried without any possibility of appeal upto a value of Rs. 20 (48 francs) and with possibility of appeal when the value of the claim exceeded that amount. The police court was also given jurisdiction to try police offences, thefts, swindles, brawls, assault and battery and infringement of ordinances and regulations relating to direct and indirect taxes.

Appeals from decisions of the Court of the Justice of the Peace in civil as well as police matters lay to the Court of First Instance. Decisions pertaining to certain matters of caste were however expressly exempted from the appellate jurisdiction of the court. Article 6 of the Ordinance of 26 May 1827 had provided that : "Special disputes other than those relating to interests and claims arising in the families of Indians or in the same caste about ceremonies, marriages, funerals and other matters called matters of caste are brought before the police judge and referred either to the Advisory Chamber (**Chambre de consultation**) or to the assembly of caste or of relatives for being considered there and decided upon in conformity with the custom, such decision being then confirmed by the judge, fully or partly, as necessary.

With respect to major disputes which may arise between one or more castes about their worship, customs or privileges, the police can deal with them only on the special authorisation of the Administrator who alone is competent to decide them."

No changes were introduced by the ordinance in the composition or jurisdiction of Tribunals of First Instance in the other French establishments in India. The choultry court which was in existence for nearly a hundred years was abolished, and all cases pending before that court were to be transferred to the tribunal of first instance. The Advisory Chamber was to continue to function and was to give advice whenever called upon by the courts.

It was however provided that one of the judges of the tribunal at Karaikal was to be a licentiate in law and was to be entrusted with investigations, examinations, orders and all proceedings in civil and criminal matters, in addition to his functions as judge commissioner (**jugé commissaire**) and **jugé rapporteur**.

The ordinance defined the jurisdiction of the King's Court (**Cour Royale**). It was to hear appeals in civil matters from decisions of the **Tribunals of First Instance** in various French establishments in India. It was also to hear appeals in correctional and criminal matters from judgments of tribunals from French establishments other than Pondicherry and its dependencies. It was the court of first and last instance in correctional and criminal matters for Pondicherry and its dependencies.

The ordinance also provided that notables could officiate for **conseillers** and **conseillers auditeurs** if the latter were unable to attend to their work.

A royal ordinance of 11 September 1832 effected a slight change in the composition of the King's Court when sitting to try criminal cases. It was provided that the bench of seven judges required to give decisions in criminal matters should be composed of four magistrates (judges) of the court and three prominent residents.

The Judicial Organisation :

The judicial organisation in the French Indian establishments from 1842 to 1963, a period of about a dozen decades was based on an ordinance of 7 February 1842 as amended from time to time. In 1963 a few substantial changes were made, but it was only in 1968 that a total change in the system took place.

The ordinance of 1842 sought to reorganise the whole system of judicial organisation. The article 4 expressly stated, for instance, that judges could not disturb in any manner the work of the administrative bodies, nor summon before them administrators, on account of their functions, as otherwise they would be charged with abuse of authority. This clear-cut separation of powers was a great revolutionary change from the position adopted by the sovereign council over a century before. This **ordonnance** was amended in certain details, among others, by a **décret** of 29 July 1939 which downgraded the court of appeal into a superior tribunal of appeal, by the **décret** of 1 March 1879 which gave extended jurisdiction to the Courts of Justice of the Peace in Mahe and Yanam and by the **décret** of 11 May 1934 which abolished the Courts of the Justice of the Peace with ordinary jurisdiction. The **décret** of 22 August 1928, however, made certain substantial changes.

The courts in the establishments as constituted before the *de facto* cession in 1954 consisted of the following :

(i) Superior Tribunal of Appeal (**Tribunal Supérieur d'Appel**) at Pondicherry with a **Président**, two other judges, and a **Procureur de la République**.

(ii) Tribunal of First Instance, second class, at Pondicherry with a President, a judge, and Assistant Judge (**Juge Suppléant**) and a **Procureur de la République**.

Tribunal of First Instance, third class, at Karaikal, with a President, an Assistant Judge and a **Procureur de la République**.

(iii) Courts of Justice of the Peace with extended jurisdiction (**compétence étendue**) at Mahe and Yanam, each consisting of one judge and a **greffier**.

The **Procureur de la République** at the Superior Tribunal of Appeal performed the functions of the head of the Judicial Department.

With the abolition of the Courts of the Justices of the Peace with ordinary jurisdiction, the right of appeal of the litigants whose cause was of small pecuniary value or who were convicted of minor infractions of the criminal law was taken away from them. The principle that every litigant has a right of appeal to a higher court was not disputed; but it was considered unnecessary to have an appeal where the pecuniary value of the suit or the penalty likely to be imposed was insignificant. Those disputes were sought to be placed, under the **décret** of 22 June 1934, before a judge belonging to the second degree of jurisdiction, that is, the President of the Tribunal of First Instance or a judge delegated by him. These justices with enhanced competence had the same jurisdiction in civil matters as that of the Tribunal of the First Instance. When the Justices of the Peace with enhanced competence sat as Police Tribunal (**Tribunal de Simple Police**) to try persons charged with petty offences they could impose a sentence of simple imprisonment for five days or a fine of fifteen francs. It was from such sentences that there was no provision for appeal. The Superior Tribunal of Appeal at Pondicherry however, acted in these petty matters as a Court of Cassation, in place of the **Cour de Cassation** at Paris.

Tribunal of First Instance : In the Tribunal of First Instance was vested general jurisdiction (**Tribunal de Première Instance**). It had jurisdiction over all disputes of a civil nature which were not referable to any special tribunal by any express provision of law. Over cases whose pecuniary value was not more than Rs. 900 it had jurisdiction in the last instance, that is, its decisions were not subject to appeal. The **décret** of 31 May 1873 had specifically stated

that when the tribunal decided disputes in personal and commercial matters where the amount involved was not more than Rs. 900 (1,500 francs) as principal, and actions relating to immovables where the revenue was Rs. 30 calculated on the basis of amount of lease or rent, actions relating to immovables other than houses, buildings or gardens liable to a land tax of Rs. 7.20 a year, there was to be no appeal, but there could be review by **Cour de Cassation**. When the pecuniary value was over Rs. 900 there was provision made for appeal to the Superior Tribunal of Appeal.

The President of the Tribunal of First Instance was entrusted with a variety of duties; some of them he generally delegated to an Assistant Judge. He could issue orders of a provisional character in a summary procedure, when petitioned in cases of urgency without prejudice to the final decision given after going into the merits of the case. Those *référé* proceedings generally prevented the defendant in the petition from making use of an advantageous position he was in owing to fortuitous circumstances. For instance, at the death of a parent who lived with his youngest son, his movables including money and jewellery could be ordered to be kept sealed on petition by the other sons, lest the youngest one should remove them or alienate them. This in no way would prejudice the claims of the youngest son at a proper partition to be effected later.

The **Président** generally reserved to himself the civil cases within the jurisdiction of the tribunal and delegated one of the Assistant Judges to deal with those cases which could have been dealt with by the Justice of the Peace had his office not been abolished by the *décret* of 22 June 1934. In this delegated capacity the Assistant Judge decided in the last instance disputes where the pecuniary value involved did not exceed Rs. 360 (600 francs). Before adjudicating disputes of this nature which fell within the jurisdiction of the Justice of the Peace, it was required of the judge to attempt a settlement of the dispute through conciliation. In the same capacity, he presided over family councils to see that the properties of a person under guardianship were not dissipated to his detriment. The properties of a person under the guardianship could not be mortgaged or sold without a decision of the family council authorising such an act and confirmation of the decision by the court.

The Assistant Judge, in exercise of the powers delegated to him, taxed bills of costs of advocates, settled the order of priority among creditors when a judicial distribution of the proceeds of a debtor's property had to be made and supervised the conduct of court auctions.

In its criminal jurisdiction, the Tribunals of First Instance sat as correctional court and dealt with infractions of law for which the punishments imposed were known as correctional penalties, that is, imprisonment from six days to five years, a fine of more than 15 francs with suspension of civil, political and personal rights. It was generally the Assistant Judge who presided over the correctional court under the authority delegated to him by the President of the Tribunal. Presiding also over the Police Court, he tried cases of minor infractions for which the punishment provided was imprisonment for one to five days and fine of one to 15 francs.

It was the duty of the **Procureur de la République** to set in motion criminal proceedings. In case of inaction on his part, it was for the injured party to initiate proceedings in the criminal court.

The Justices of the Peace with enhanced competence at Mahe and Yanam had the same powers and functions as the Tribunal of First Instance. They dealt with matters within the jurisdiction of the Tribunals of First Instance as well as those within the jurisdiction of the Justices of the Peace with ordinary jurisdiction. The latter category of cases they decided in the last instance. The decisions they handed down in the exercise of their enhanced powers as a Court of First Instance were appealable before the Superior Tribunal of Appeal at Pondicherry.

Superior Tribunal of Appeal: The collegiate principle was scrupulously followed in the Superior Tribunal of Appeal. Three judges sat together and heard appeals from the Tribunals of First Instance as well as from the Courts of the Justice of the Peace with enhanced competence, also appeals against provisional orders passed by the President of the Tribunal of First Instance and that of the Commercial Court in *référé* proceedings. While performing the functions of a **Cour de Cassation** in matters referred to it by tribunals exercising powers of the Justices of the Peace with ordinary jurisdiction, it was a three-man bench that deliberated and handed down decisions.

The time-limit fixed for appeals in civil cases was one full month and in correctional matters, ten days from the notification of the judgment. A time-limit of ten days from the notification of judgment in civil cases and of three days from the date of delivery of judgment in police court cases was allowed when petitions were filed for annulment of the judgment before the tribunal sitting as a Court of Cassation.

In criminal matters it was for the investigating judge (Juge d' Instruction) to decide whether a complaint should be dismissed or referred to the court for trial. From his decision, an aggrieved party (*partie civile*) as well as the **Procureur de la République** could appeal to a Chamber of the Superior Tribunal of Appeal known as **Chambre de Mise en Accusation** (Committing Chamber). If the investigating judge, during his investigations found that the offence committed was a crime (that is, an offence punishable with imprisonment for over five years), he issued an **ordonnance de renvoi** to the committing chamber to be seized of the matter : if he found that the offence was a *délit* ¹⁵¹ and not a crime, he sent the case to the correctional tribunal. Three judges of the appellate tribunal were expected to comprise the committing chamber ; but in Pondicherry as the appellate tribunal consisted of three judges only, it was not proper to constitute a bench of three judges from that court to function as a committing chamber and later require the same judges to be members of the sessions court to try the cases committed for trial by the chamber. To obviate this difficulty, the committing chamber used to be composed of a judge of the Superior Tribunal of Appeal, an Assistant Judge of the Tribunal of First Instance and an Advocate. The Sessions Court at Pondicherry used to be composed of three members of the Superior Tribunal of Appeal and four assessors. In the other establishments it consisted of a judge of the Superior Tribunal of Appeal, a judge of the Tribunal of First Instance or a Justice of the Peace and an officer nominated every year by the Governor, apart from the four assessors. In theory a criminal session sat every quarter at each of the establishments to try persons referred to the Sessions Court by the Committing Chamber at Pondicherry. When the trial was to take place in Karaikal, Mahe or Yanam, one of the judges of the appellate tribunal was sent to this place accompanied by the **Procureur de la République**.

The assessors who sat with the judges at a sessions trial were chosen from a panel of prominent persons nominated every year for the purpose. Although all the persons in the panel were summoned before the trial, the assessors for the case were selected by drawing lots. The defence counsel could challenge the selection of four assessors without assigning any reason and the **Procureur de la République** was accorded the same right. Two alternate assessors also were selected for every trial. Until his guilt was proved, the accused was presumed to be innocent in exactly the same way as is done in common law jurisdiction.¹⁵² A majority of judges and assessors together

declared whether the accused was guilty or not. Then the **Président** (Presiding Judge) of this sessions court after considering extenuating circumstances, if any, pronounced sentence. The sessions court was empowered to sentence an offender, according to the gravity of the offence, to such penalties as capital punishment, rigorous imprisonment for life, deportation and imprisonment in another colony.

Civil intervention in criminal proceedings is an important feature of the French Procedure. In every French criminal proceeding, person injured may make himself '**partie civile**'. The aggrieved party may instead of filing a separate civil action, interpose in criminal proceedings against the delinquent and demand reparation for malicious prosecution. There is no parallel system in India.

Another useful institution in the French law pertains to the system of suspended sentences called **Sursis**. Under this system although the offender is convicted and sentenced to vindicate law, the execution of the sentence is suspended. If the offender does not commit any offence during the given operational period, his sentence stands automatically revoked. The intention is to keep the person away from the prison where there is a possibility of his getting mixed with the habitual offenders.¹⁵³

Cour de Cassation, Paris :

There was provision for the decisions of the Superior Tribunal of Appeal and those of the Tribunal of First Instance which were not appealable, to be challenged, on questions of law, by the **Cour de Cassation** in Paris. The principle of "double degree of jurisdiction" enshrined in French jurisprudence stipulates that there should be one appeal and only one in a law suit. The one exception to this principle is in the case of petty litigation where there is no provision for appeal. There is also no appeal from a decision of **Cour d'assises** (sessions court) but here there are proceedings before the committing chamber. Cassation is not appeal. The term connotes what is done by the **Cour de Cassation** when a decision of the lower court is brought before it for review. It does not reopen or rehear the case on questions of fact or on the evidence. It considers only the question of law raised by the petitioner before it and either dismisses the petition or remands the case. When it decides to remand the case it is remanded to a court of equal rank

and jurisdiction as the one by which the impugned decision was rendered or occasionally to the same court as used to be done in the case of the appellate tribunal at Pondicherry—with a direction that the remanded case should be tried by a bench consisting of judges different from those who had previously tried it.

With the cession of the French establishments to the Indian Union powers of cassation vested in the **Cour de Cassation** were transferred to the High Court of Judicature at Madras.

Advisory Committee on Indian Law : The work of the Advisory Chamber does not appear to have been entirely satisfactory. The preamble of the ordinance setting up the Advisory Committee on Indian Law (**Comité Consultative de Jurisprudence Indienne**) recited as reason for the establishment of the new institution the fact that all kinds of abuse had crept into the composition and the method of procedure of the Advisory Chamber diminishing the consideration enjoyed by the institution and reducing its likely usefulness. It was therefore considered necessary that it should be reorganised on firm foundations which could give a certain guarantee in relation to the choice, capacity and independence of its members and for the orderliness, speed and impartiality of its deliberations.

The Advisory Committee on Indian Law, according to the ordinance of 30 October 1827 which established it, was to guide the decisions of the Government and of the tribunals on issues whose solution required knowledge of Indian laws and the manners and customs of the indigenous population.

The Committee was to consist of nine members—two Brahmans, two Vellalas, one Kavarai, one Dessaye (that is, senior chief of the low caste), one member of the shepherd caste, one Komutti, and one Chetti. These members and nine alternate members in the same proportion for each caste were to be chosen and appointed by the Administrator General.

They were to be chosen from among Indians who were considered most suitable on account of their integrity and knowledge of the laws, manners and customs of the people. Persons whose worldly fortunes might tend to secure their independence were to be preferred. The Dessaye, whose claim to membership depended on his position among the lower caste could not be appointed

a member if he were not over 25 years of age and not born in Pondicherry or domiciled there for five years. A quarter of the number of members as well as of alternate members was to be renewed every two years.

The Committee could deliberate only on issues referred to it by the Administrator General, the head of the **ministère public** or the tribunals. The questions on which its advice was sought had to be given in an abstract form without making any reference to the persons involved. The orders for such references (**ordonnances de renvoi**) issued by the tribunals were made in chambers without their being communicated to the parties.

In dealing with matters of caste and all other matters where the procedure generally adopted was found inadequate or impracticable, the tribunals, at the time of making the reference, could give the Committee some guidelines to be followed and authorise the communication of documents to the parties, the hearing of parties and witnesses or other proceedings considered necessary. Later the reference itself could be made known to the parties who were then permitted to submit within three days from the date of such communication, their reasons, if any, for objection against members of the Committee. The tribunal might allow or reject their objection. The minutes of the deliberation of the Committee were to be taken down by the **greffier** in the course of its session.

The Committee could not refuse or defer giving an opinion on questions referred to it even when the law on the question was silent or ambiguous. If it persisted in its refusal, even after notice or injunction from the tribunals, they could be legally proceeded against and punished for denial of justice under the provision of the Penal Code. The lower courts which had the right to give a warning to the Committee to be more correct in future if it deviated from the questions put to it or from forms drawn up for it or delayed forwarding its opinion, was bound to give reasons in their judgments if they departed from the opinion of the committee, to give reasons for such departure. The Administrator General and the King's court had the right to censure and discipline the Committee; they could also revise the opinion rendered.

The head of the **ministère public** entrusted with supervision of the execution of the ordinance, could bring to the notice of the President of the Committee any irregularities committed and also denounce them, if necessary, before the King's Court in council chamber and initiate, in the interest of the law, a revision of the opinion given by the Committee.

The ordinance, while providing for this Advisory Committee, abolished the Advisory Chamber established in 1778.

Labour Court : By an order of the Governor issued on 20 May 1954 a labour court was set up in Pondicherry. It was composed of a President, four Assessors and a Secretary. The President was generally a judge nominated by the President of the Superior Tribunal of Appeal. For the decision of a case the President of the Court invited two employer-assessors and two employee-assessors belonging to the category concerned with the particular litigation from a panel of assessors appointed every year by the head of the territory. The categories were: (i) industries, (ii) commerce, professions, banking transport (iii) public works and (iv) domestic services. The Secretary of the court was appointed by the head of the Territory from among administrative officers.

The court had jurisdiction to decide individual disputes relating to a contract of employment between workers and their employers, as also individual disputes relating to collective agreements or orders which were passed in lieu of such agreements. Further it could also deal with disputes between employees arising in the course of their employment.

A dispute for decision was brought before the court by an oral or written declaration made to the Secretary of the Court. A defendant in an *ex parte* decision had ten days after the notification of the judgment, in addition to the time-limit allowed in consideration of distance, to file his opposition, that is his petition to quash the judgment and rehear the case. Appeals from the decisions of the court lay to the Tribunal of First Instance.

This labour court set up under the provisions of the French Labour Code ceased to exist on 1 October 1963, when labour laws in force in other parts of India were extended to the Union Territory.

Administrative Court : The system of administrative tribunals generally regarded as perhaps the most glorious feature of French jurisprudence, was introduced in the Establishments in 1881. A *décret* of 7 September 1881 extended to all French colonies a *décret* of 5 August of the same year relating to the organisation and powers of administrative courts. An amendment to the *décret* made in 1947 defined afresh the jurisdiction of the court (*Conseil du Contentieux administratif*). The *décret* of 12 April 1947 laid down that the administrative court should take cognizance of any administrative dispute arising

on account of an act (*acte*) performed on behalf of the local government, or on account of the performance of a public service within the purview of that government and generally, unless otherwise provided by law, of any dispute falling under the category of administrative disputes.

The court was composed as per the *décret* dated 30 December 48 of a President who should be a member of the Superior Tribunal of Appeal, two Government officials selected preferably from among those who had a degree in law and two judicial officers. An official who was a graduate in law was to perform the duties of the Government Commissioner, and those of the secretary of the court were entrusted to an official of the general administration or in default to one of the local administration. The head of the Territory appointed to the court as many alternates as there were regular members, the former fulfilling the same conditions as those laid down for the latter.

Any conflict of jurisdiction which might arise between the administrative court and the ordinary courts was to be settled by the Court of Conflicts (*Tribunal de conflits*) in Paris.

The *décret* of 5 August 1881 laid down, among other things, the procedure to be followed in the court when dealing with a matter before it.

Petitions addressed to the court as well as all documents relevant to the cases before the court were to be submitted at the office of the Secretary. Notice of the petition could also be given through a *huissier*. If the latter procedure was followed, it was incumbent on the party concerned to deposit the petition, in the original, at the Secretary's office within eight days from the date of giving notice. When Government was the plaintiff, the officer appointed to act on their behalf was required to deposit a memorandum addressed to the court at the Secretary's office along with relevant documents and a sufficient number of copies according to the number of parties involved. After registration of the petition, a rapporteur was appointed to make the necessary investigation. When a brief report was made by the rapporteur, the President of the court ordered the communication of the petition to the parties concerned. He also fixed the time within which defendants were expected to make their statements. Within fifteen days from the date of communicating the statements of the defendants, the plaintiff could submit a statement. A period of fifteen days was allowed for the defendants to submit a rejoinder. After necessary

verifications had been carried out the rapporteur drew up a note and a draft order. The whole file of the case along with the note and the draft order was then sent to the government commissioner. On the day fixed for hearing, one of the members of the court made a report which could be followed by oral submissions by the parties, in person or through an agent. The government commissioner then reads his conclusions. If the court found it necessary, the parties might be examined, witnesses called and experts asked to give their opinion. When a decision was taken by a majority in secret deliberation by the members of the court, judgment was delivered in open court. The judgment itself contained the executory formula. No separate decree as such was drawn up. It was then published in the Gazette.

Conseil d'Etat : **Conseil d'Etat** in Paris heard appeals from the judgments of the administrative court. The prospective appellant was required to make a declaration, containing grounds of appeal, to the effect that he proposed to prefer an appeal. Within sixteen days the declaration would be notified to the respondent or a copy of it served on him. The petition for appeal was to be filed within three months either in the litigation section of the **Conseil d'Etat** or at the Office of the Secretary of the court. If the second method was adopted, the petition would be forwarded by the government to the litigation section of the **Conseil**.

The general rule was that the parties should be represented by counsel before the **Conseil d'Etat**. But there were a few exceptions as in cases relating to direct taxes and taxes assimilated to them for purposes of realisation, elections and minor offences which it was the concern of the administrative court to repress.

Legal-aid : A **décret** of 16 January 1854 introduced legal assistance to the indigent litigant in the Establishments. A petition supported by the proof of his indigence had to be submitted by the litigant to the judge who would either constitute himself, or preside over, the court which would take a decision on the request for legal aid. The petition was to be considered not only on the basis of the evidence of poverty, but also on the *prima facie* merits of the claims made in the suit. The judge would summon the opposite party who could challenge the statement regarding indigence and also make his submission on the merits of the claim. When the opposite party appeared, the judge was expected to use his good offices to bring about a friendly settlement. In the

Tribunal of First Instance and the Superior Tribunal of Appeal the petition for legal aid would be communicated to the **Procureur de la République** with a view to enabling him to express his opinion on the request. If he was in favour of the request the court would pass an order granting legal aid.

Judicial Officers : The judges who manned the tribunals in the early days of the French administration in India had no legal qualification. We have seen that merchants and tradesmen used to sit as judges in the tribunals established during the period. A statement made by the President of the court at Chandernagore is revelatory of the position. He said :

In fact, the labyrinth of laws so extensive, the profession of the judge so difficult and the multiplicity of forms so complicated, that those who have made a hard study all their life can hardly flatter themselves of being informed well enough not to lose their way. How then can those who have only common sense coupled with the highest integrity remain unaffected by the fear of unjustly depriving their fellow citizens of honour, wealth and perhaps of life ?

The position of the judge was therefore not enviable. A complete reorientation of the magistracy was effected by a **décret** of 22 August 1928. The **décret** laid down rules which were to govern the colonial judiciary.

Various categories of persons were eligible for appointment to the colonial judiciary. They included advocates, **notaires** and **avoués** in the colonies holding the degree of licentiate in law who had practised their profession for ten years. Professors and **aggrégés** of the state faculties of law and lecturers of state faculties of law with experience of two years, and chief registrars of the courts of appeal and civil courts in the metropolis, holding the degree of licentiate in law and having put in at least ten years of service. It is important to note that weightage was given to legal practice when appointing magistrates to the colonial judiciary.

Certain educational qualifications and practical experience were regarded as essential for appointment as Justices of the Peace with ordinary jurisdiction. According to the **décret** no one could be appointed to the position unless he had obtained the degree of licentiate in law and had undergone training for two years either at the Bar, or in the office of a **notaire** or **avoué**, or on the office of a **greffier** or as **attaché** in a **parquet général** of colonies or territories

under the ministry of colonies. **Avoués** who had fifteen years of experience in the colony were exempted from the requirement regarding the holding of the degree of licentiate. With a few exceptions, all candidates were expected to pass a professional test.

Perhaps the most important characteristic of the French judiciary is what is known as **inamovibilité** (irremovability). To be **inamovible** means that the incumbent cannot be removed, suspended or transferred except under conditions contemplated in clean legal provisions. Their removal, suspension or transfer is therefore not in the discretion of the executive. The principle of **inamovibilité** was however, inapplicable to the judicial officers in the administrative departments and in the **ministère public**.

In order further to ensure their independence and impartiality, there was a promotion committee at the Ministry of Colonies which drew up a promotion list. The Committee was composed of a president of a chamber and three judges of the **Cour de Cassation**, nominated every year jointly by the Minister of Justice and the Minister of Colonies, three magistrates from the colonies nominated by the Minister of Colonies with the consent of the Minister of Justice, the Director of Personnel in the Ministry of Colonies and the **Chef de Cabinet** in the Ministry of Colonies. Promotions were generally made in the order of inclusion in the promotion list except for appointment to the post of **Procureur de la République**.

Magistrature debout : There was a **Procureur Général** attached to the Sovereign Council set up by the edict of 1701. He was generally the last of the councillors, sometimes a sub-dealer. Apart from the duties laid down by the edict of 1707, he was also expected to safeguard the interests of the company. He upheld the rights of the company in the territories that had been gifted to it.¹⁵⁴ As the person in-charge of all unclaimed estates, he could dispose of them and send the sale proceeds and the relevant deeds to the company. It was his duty to see that law and order was maintained and he asked for appropriate sanctions from the council for the purpose. When in 1738 some clever counterfeiters introduced into the establishments gold coins of an assay inferior to that in use there, the **Procureur Général** induced the council to issue an *arrêté* imposing a fine and fifty lashes of the whip for those who uttered counterfeit coins.

Officers of the **ministère public** attached to all regular courts acted as public prosecutors in the conduct of serious criminal cases, as joint party in civil cases to present the public interest.

The **ministère public** was headed by the Minister of Justice. The designation given to the head of the **ministère public** before a Court of First Instance as well as before a Superior Tribunal of Appeal was **Procureur de la République**. The members of the **ministère public**, like the judges, were called 'Magistrats'. They were considered equal to judges drawing the same salary as judges in corresponding positions and sat on a special dais in the court room separately from the judges. The qualifications for appointment, conditions of service and rules regarding promotion were the same for them as for the judges, except that they did not enjoy **inamovibilité**.

The ordinance of 7 February 1842 provided that the court should deliver judgment only after hearing the **procureur** in his address to the court. He was not present when judges deliberated to decide upon the judgment to be passed, but his presence was necessary in deliberations relating to order, internal service and discipline.

Though **procureurs** were expected to represent the Government, they actually did represent the public interest. They would, for instance, prepare and file written papers according to the orders of their superiors ; but while expressing their view before the court they could say what they thought fair and just, irrespective of the position taken in the papers submitted. As the French would say, the pen is slave but the word is free.

The **décret** of 22 August 1928 laid down the qualifications required for appointment as **attachés** in the **parquet général** of the colonies. It provided, among other things, that the **attachés** should be holders of the degree of licentiate in law and must have passed the professional test for judicial posts. The **attachés**, if found suitable, were asked to officiate as temporary judges and after a period of probation, they were generally appointed judges in the colonies.

There were two **Procureurs de la République** at Pondicherry, one before the Tribunal of First Instance and the other before the Superior Tribunal of Appeal. The **procureurs** at Karaikal, Mahe and Yanam were required to perform the same duties as the **Procureur de la République**, but under the guidance of the **Procureur de la République** before the Superior Tribunal of Appeal at Pondicherry.

Advocates : During the days when the Sovereign Council was the main judicial body in the establishments, there appears to have been no bar nor any institution similar to that of approved counsel. 155

By 1826, however, European and Indian Counsels were authorised to appear before the courts in Pondicherry. In the French Indian Establishments, however, there was a fusion of the two branches of the profession in the person of *avocats-conseils* and *conseil-agrérés* (approved counsel). These advocates were permitted to perform the various acts of procedure which *avoués* (solicitors) in the metropolis were entitled to do. To be called to the Bar, French citizens or indigenous subjects in the colony who were not less than twenty-one years of age and who had obtained the degree of licentiate in law had to undergo probation for two years doing diligent work in the office of an *avocat conseil* or *conseil agréé*. Those who had obtained the *certificat de capacité en droit* were allowed to be accepted as *conseil-agrérés stagiaires*. As the *avocats-conseils* and *conseils-agrérés* could generally take only one person for probation in his office and two persons with the special permission of the Bar Council, the number of *avocats-stagiaires* (advocates on probation) and consequently the number of advocates in the Establishments came to be limited.

Further the number of legal practitioners was fixed by law. In 1932, there were 12 *avocats-conseils* and 6 *avocats-stagiaires* at Pondicherry, 8 *avocats-conseils* and 4 *avocats-stagiaires* at Karaikal, 4 *conseils agréés* and one *conseil agréé stagiaire* at Mahe, and 4 *conseils agréés* and one *conseil stagiaire* at Yanam. The *arrêté* of 12 January 1950 fixed the number of practitioners as follows :

Pondicherry	..	20 <i>avocats-conseils</i>
Karaikal	..	12 <i>avocats-conseils</i>
Mahe	..	8 <i>avocats-conseils</i> or <i>conseils-agrérés</i>
Yanam	..	8 <i>avocats conseils</i> or <i>conseils-agrérés</i>

Advocates on probation were permitted to plead, but not to represent the parties. *Avocats-conseils* and *Conseils agréés* were entitled to plead as well as represent the parties in all civil, criminal, commercial and administrative matters.

As a condition precedent for admission to the Bar, advocates and approved counsel had to furnish a security of immovables or 3000 francs in cash at Pondicherry, 2000 francs at Karaikal and 500 francs in Mahe and Yanam.

Notaires : **Notaires** were public officials appointed to record all deeds and contracts to which the parties should or wished to give the character of authenticity associated with the acts of a public authority, in order to ensure the date of their execution, to keep them in safe custody and to deliver copies both common and executory. 156

A **notaire** was considered a public official, because he derived his authority directly from the State as he was appointed by the Government and also because his **actes** were invested with executory force. In fact, **notaire** of the French establishments had only a tenuous, nominal relationship with the notary public of British India. The authenticity that a notarial act derives had been described as the attestation of a fact by a public authority whose declaration was conclusive without previous verification, until impeached for falsity.¹⁵⁷ Further the **grosse** (executory copy) of a notarial act which concludes with an executory formula identical with the one found in orders issued by courts was self-executory. For instance, a creditor who was armed with a **grosse** relating to his loan could levy execution on his debtor's property without any proceedings in a court.

The institution of **notaires** in the French establishments in India may be traced back to the days of the establishment of the sovereign council. One of the members of the council functioned as a **notaire** and all the income accruing from his work went to the coffers of the company. Later on notarial work was assigned to a subdealer.

As for the **tabellion** (Indian notary), the position was held hereditarily by a family for over a century and half. Formerly it appears to have been given on lease. But to Nainiyappa, a rich and influential person who held the post around 1729 it was given as a gift. Later on it was sought to be bought back from his descendants by the company for a sum of 400 pagodas. Though the administration in Pondicherry indicated that it was unjust and hazardous to buy back the gift, the notarial rights of the **tabellion** were finally got back for a consideration.

A regulation of 18 November 1769 required that all contracts for sale of immovable properties should be executed in the presence of the notary or the **tabellion** of the choultry court. It also stipulated that all Indians, including Indian Christians but not Muslims desirous of making a will should call the **tabellion**, along with the interpreter of the choultry court belonging to their religion and witnesses whom they considered suitable. ¹⁵⁸

There were a number of edicts and regulations relating to the notarial system in Pondicherry before the adoption of the **décret** of 24 August 1887 which reorganised the system in the Establishments. The **décret** of 1887 repealed all the previous enactments on the subject. ¹⁵⁹ But the salutary condition imposed by a **décret** of 16 July 1878 that the presence of an interpreter was necessary when executing a notarial act if one of the parties or one of the witnesses could not understand French appears to have been kept alive. ¹⁶⁰

The number of **notaires** appointed to a place or region was limited. It was fixed at six for Pondicherry region by a **décret** of 7 May 1890 ; a **décret** of 22 July 1922 allotted four **notaires** to Karaikal region. Mahe and Yanam had one **notaire** each ; the number for Mahe was increased to two in 1953. ¹⁶¹ A notary was required to reside at the place fixed for him in the order of appointment issued to him.

The **Procureur Général** was in-charge of the discipline of the **notaires**. He could issue a call to order, censure by way of reprimand, or give a warning. He could, if found necessary, recommend severe punishments such as suspension, replacement or removal from office. Suspension could only be for a year. Replacement or removal from office required confirmation by the President of the Republic.

With the extension of the Indian Registration Act, 1908 and the Notaires Act, 1952 to Pondicherry in 1968, **notaires** ceased to function in the Union Territory. An amendment of the Advocates Act, 1961, however, enabled them to be enrolled as advocates. ¹⁶²

Huissiers : The duties of **huissiers** ranged over a wider field than what is connoted by the terms bailiff or process-server though these are the expressions generally used to denote or describe them. They served legal papers, and levied execution, but a very important function they performed related to their

acting as a commission to observe and investigate matters on the spot and make an authentic record. According to the *décret* of 14 June 1813 all summons, notifications, as well as notices and writs required for the enforcement of the orders of tribunals were to be made by *huissiers* except for certain exceptions legally provided for. In criminal matters they were to carry out all acts which the *Procureur de la République*, the investigating judge and the parties called upon them to do.

Before recruitment to the position of *huissiers*, a candidate had to sit for an examination which included oral and written tests. The written test consisted of the drafting of a legal paper, the kind of paper *huissiers* had generally to serve and an essay in the language of the Establishment to which the candidate, if successful, would be appointed. The oral test covered a number of topics in the Civil Code, Code of Civil Procedure, the Commercial Code and the Code of Criminal Procedure. They had to be on probation for a period of eighteen months.

The number of *huissiers* was fixed for each Establishment. There were six in Pondicherry, two for the Superior Tribunal of Appeal and four for the Tribunal of First Instance ; five in Karaikal, two in Mahe and one in Yanam.

A society (*communauté*) of *huissiers* was required under law to be formed in each Establishment comprising all the *huissiers* there. Every *huissier* remitted certain amounts every month to the common fund maintained by the society. There was a scheme of social security envisaged for them in the *arrêté* of 1 July 1936. The society at a general meeting could allocate funds to make monthly payments to *huissiers* who were discharged on account of infirmity or old age, as well as to the wives and children of deceased *huissiers*.

On the extension of Civil Courts Amins Act, 1856 to Pondicherry when their office ceased to exist, *huissiers* were permitted to be enrolled as advocates.

Greffiers : Two categories of personnel in the local registry of the court, namely assistant registrars and clerks were envisaged by the *arrêté* of 6 June 1939. Appointment to the post of assistant registrars was dependant on the candidate's being declared successful at a competitive examination. Only those

who had passed the first part of **baccalauréat**, or possessed the diploma or **brevet élémentaire** or the certificate of the first degree of secondary education or the **certificat du capacité en droit** were permitted to sit for the examination. The candidates selected for appointment were required to be on probation for one year. In certain cases the period of probation was extended by a further period of one year on the recommendation of the Chief of the Judicial Service. Assistant Registrars were required to reside at the place where the tribunal to which they were attached was situated.

Bar Council : There was a Bar Council in each of the Establishments to look after the interests of the Bar. The Council could decide on applications for enrolment on the rolls of advocates on probation. When functioning as a disciplinary council, it could take action against legal practitioners for infractions and fraud committed by them. The Council was authorised to apply sanction like warning, censure, suspension and disbarment.

With the extension of the Advocates Act, 1961, with certain modifications, to the Union Territory of Pondicherry, the monopoly of the **Avocats Conseils** ceased to exist. Section 58AA which was inserted in the Advocates Act, made special provision for the enrolment as advocates of persons who had been practising the profession of law "by way of pleading, or acting or both or in any other way" before the date of the extension of this Act. The expression "in any other way" used in the section in relation to the practice of law was given a every liberal interpretation and not only **avocat-conseils** and **conseils-agrèés**, but also **notaires**, **huissiers**, and all those holding the degree of "**Licence en Droit**" or the diploma of "**Capacité en droit**" were admitted to the roll of advocates.

Applicable Laws :

From the practice of the courts set up by the French in the XVIII century, it may be gathered that the laws in force at the time they took over the administration were the rules of *dharma sastra* as varied by customs among the Hindus. Quranic laws along with local customs appear to have been applicable to the Muslims. The French were eager to follow the customary laws while administering justice to the Indians under them ; so what they acknowledged and accepted as the laws of the indigenous inhabitants may be regarded as the law in vogue at the time.

It has already been mentioned that the French administration had guaranteed to Indians the application of their own laws and customs. The regulation of 30 December 1769 specifically stated :

“The nation having undertaken from the very beginning of its establishment in Pondicherry to try the local native inhabitants and other Indians who had recourse to French courts, according to their own customs and usages, the lieutenant general is required to conform in this regard, to the practice followed until this day by the civil bench of the choultry court.” 163

All criminal cases were however to be dealt with according to French law. It was stated in the regulation that the criminal laws of the indigenes would not be accepted. 164

The regulation of 18 November 1769 laid down certain rules derived from local usages. It was thus provided that all Hindu and Christian natives who exchanged palm-leaves or letters for loans observe the law of *pancharedipatiram* as was traditionally done. The rule required that the creditor and the debtor as well as two witnesses and the scribe sign the palm leaf or letter that was exchanged. 165

The Governor also attempted to remedy an evil which was prevalent at the time : this was the pernicious habit of interposing a third person in the making of private contracts. One of the articles of the regulation of 18 November 1769 stipulated that all Hindus, Muslims and other Indians should execute deeds, mortgages, sale deeds of immovables and all other contracts in their own name, in the presence of the notary (*tabellion*) of the choultry court. They were prohibited from employing the name of their master or any other third person. Any contravention of the prohibition was to be visited with a penalty of fine and heavy punishment according to the circumstances of the case. 166

Extension of Central Enactments : After the transfer of their administrative powers in the French Establishments by the Government of France to the Union of India, the Union Government extended the application of a number of Central enactments to these establishments by various legal procedures with a view to providing for proper administration. In the very year of

de facto session as many as forty-four central enactments were extended to the Establishments by the French Establishments (Application of Laws) Order, 1954 issued under the provisions of the Foreign Jurisdiction Act, 1947. They included—

The Banking Companies Act, 1949.

The Khadi and Other Handloom Industries Development (Additional Excise Duty on Cloth) Act, 1953.

The Tea Act, 1953.

The Indian Aircraft Act, 1934.

The Indian Post Offices Act, 1898.

The Indian Census Act, 1948.

The Indian Companies Act, 1913 and

The Sugar Export Promotion Act, 1958.

After the adoption of the Constitution (Fourteenth Amendment) Act, 1962 which made these Establishments a component unit of the Indian Union and turned them into what is known as the Union Territory of Pondicherry, all enactments passed by Parliament automatically apply to this Territory, except where the legislature specifically provides for the exclusion of the Territory from the application of an enactment.

As Central enactments passed prior to the date of the *de jure* cession did not apply to Pondicherry, various methods were adopted to extend the application of such enactments to the Union Territory. By the adoption of the Pondicherry (Laws) Regulation, 1963, provision was made to bring into operation in Pondicherry 160 Central enactments by 1 October 1963.

This regulation covered many important pieces of legislation such as —

The Indian Penal Code, 1860.

The Indian Evidence Act, 1872 and

The Code of Criminal Procedure, 1898.

It need not perhaps be mentioned that the extension of these enactments necessitated a reorganisation of the machinery established for the administration of criminal justice in the Territory.

Further under the provisions of the Pondicherry Administration Act, 1962, ten enactments were extended to the Union Territory between 1962 and 1967.

The enactments extended were —

1. The Registration of Foreigners Act, 1939.
2. The Foreigners Act, 1946
3. The Citizenship Act, 1955
4. The Forward Contracts (Regulation) Act, 1952.
5. The Indians Soldiers (Litigation) Act, 1925.
6. The Central Sales Tax Act, 1956.
7. The Provisional Collection of Taxes Act, 1931.
8. The Expenditure Tax Act, 1957.
9. The Public Servants (Inquiries) Act, 1850.
10. The Criminal Law Amentment Act, 1932.

The Taxation Laws (Extension to Union Territories) Regulation, 1963 brought into force with certain modifications in the Union Territory seven Central Acts. Half a decade later, a Parliamentary enactment called the Pondicherry (Extension of Laws) Act, 1968 extended to the Territory ninety-six Central Acts. Enactments like the Advocates Act, 1961, the Civil Courts Amins Act, 1856, the Legal Representatives Suits Act, 1856, the Judicial Officers Protection Act, 1850, the Indian Oath Act, 1873, the Powers of Attorney Act, 1882, the Suits Valuation Act, 1887, the Provincial Small Cause Court Act, 1887, the Maintenance Orders Enforcement Act, 1921, the Commercial Documents Evidence Act, 1939, the Protection of Offenders Act, 1958 and the Court Fees Act, the Code of Civil Procedure, the Contract Act, the Transfer of Property Act among others, had a direct impact on judicial administration in the Territory.

As we have seen, as early as 1963, the Code of Criminal Procedure, 1898 and the Indian Evidence Act, 1872 were extended to Pondicherry with the result that the administration of criminal justice had to adapt itself to the provisions of these newly extended enactments. The adoption of the Civil Courts Act, 1966, by the Legislative Assembly of the Union Territory again brought about substantial changes in the judicial organisation of the Territory, bringing it in line with the set up in other parts of India, and especially in the neighbouring State of Tamil Nadu.

In spite of the extension of a multitude of laws to the Union Territory with a view to bringing about uniformity with other parts of the Indian Union there is a veritable wilderness of laws in Pondicherry, especially in the area of personal laws. There appear to be several varieties of personal law applicable in the Union Territory, ¹⁶⁷ apart from the French civil law applied to **renonçants**, who renounced their personal law in favour of the French civil law and whose rights to be governed by the French civil code were guaranteed by the Treaty of Cession as well as by certain modifications made in some of the Central enactments when they were extended to the Union Territory. Perhaps the only way open to do away with the wild medley of personal laws in the Union Territory is the adoption of a common civil code envisaged in one of the directive principles of state policy in the Constitution of India.

Reorganisation of the judicial set up :

With the introduction of the Indian Penal Code and (the Indian) the Code of Criminal Procedure into Pondicherry from 1 October 1963 it became necessary to reconstitute the criminal court in the Territory. Consequently, a court of sessions and a few magistrates' courts were set up. The Union Territory was brought under one sessions division and the former Superior Tribunal of Appeal was constituted a court of sessions and the **Président** of the Tribunal was appointed Principal Sessions Judge, the two **juges** as Additional Sessions Judges and the **Procureur de la République**, as Public Prosecutor. The **Président** of the Tribunal was also designated head of the Judicial Department. ¹⁶⁸

The Tribunals of First Instance at Pondicherry and Karaikal were turned into Assistant Sessions Judge's Courts with the **Presidents** of the Tribunals appointed Assistant Sessions Judges. The (**Juge d'Instruction**) Investigating Judge of the Territory at Pondicherry was appointed District Magistrate and the Assistant Judge (**Juge-suppléant**), a First Class Magistrate and the **Procureur de la République**, Public Prosecutor. The Assistant Judge at Karaikal who carried out in addition to his normal duties, the duties of the investigating judge and of the Justice of the Peace was made a First Class Magistrate and the **Procureur de la République**, Public Prosecutor. The Justice of Peace in Mahe and Yanam who presided over courts with extended jurisdiction (**compétence étendue**) were made First Class Magistrates.

As for the civil courts, a reconstitution of the civil judicial system took place when the Pondicherry Civil Courts Act, 1966 was brought into operation on 5 September 1968. According to section 6 of the Civil Courts Act, the Superior Tribunal of Appeal became a District Court, the Tribunals of First Instance at Pondicherry and Karaikal became subordinate judge's courts and the Courts of the Justice of the Peace were turned into Munsif's Courts. The President and the Judge of the Superior Tribunal of Appeal at Pondicherry were to function respectively as Principal District Judge and Additional District Judges. The Presidents of the Tribunals of First Instance at Pondicherry and Karaikal were to become subordinate judges and the Justices of the Peace and those who performed the duties of such Justice, were made Munsifs within their respective territorial jurisdiction. It was also provided that a District Judge sitting singly would exercise all the powers of the Superior Tribunal of Appeal in respect of all pending cases and cases remanded by the High Court in exercise of its powers as Court of Cassation.

Unlimited pecuniary jurisdiction was given to the District Court and the Subordinate Judge's Courts. The pecuniary jurisdiction of the Munsif's Courts was limited to Rs. 5,000 and the jurisdiction of the Subordinate Judge's Courts in small causes was fixed at Rs. 1,000 and that of the Munsif's Court at Rs. 500.

Under the provisions of the Civil Courts Act, the office of the **Procureur de la République** was abolished as also the **Conseil du Contentieux Administratif**.

Appeal from the decision of the District Judge would be to the High Court of Judicature at Madras. Apart from the District Court at Pondicherry there are three Subordinate Judge's Courts, one at Pondicherry, one each at Karaikal and Mahe, and three District Munsif's Courts one at Pondicherry and one each at Karaikal and Yanam.

Given below is a statement showing the institution, disposal and pendency of cases during the year 1972:

	Institution during 1972	Disposal during 1972	Pendency at the end of 1972
Civil Courts :			
District Courts	1,695	1,592	398
Sub-Court	4,357	4,029	2,018
Munsif Courts	4,145	3,983	1,948
Criminal Courts :			
Sessions Courts	88	80	8
Magistrate Courts	9,788	9,305	483
Other Courts :			
State Transport Appellate Tribunal	2	23	43
Total	20075	19012	4898

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3. F. N. Laude : Etudes sur les origines judiciaires dans les Etablissements français dans l'Inde, p. 9.

4. Diary, Vol. VI, p. 229.
5. Le Gentil : Voyage dans les mers de l'Inde, Tome I (1779), p. 634.
6. F. N. Laude : op. cit. pp. 10-11.
7. Arrêts du Conseil Supérieur de Pondichéry, Tome III, pp. 449-460.
8. Arrêts du Conseil Supérieur de Pondichéry, Tome V (1790-1794), pp. 128-176.
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12. Petignet : op. cit.
13. B. O. 1864, pp. 62-63 (Reprinted Ordonnance).
14. A. A. 1826, Ordonance of 21 August 1826, pp. 101-111.
15. A. A. 1827, Ordonnance of 26 May 1827, pp. 110-122.
16. A. A. 1827, Ordonnance of 20 October 1827, pp. 178-180.
17. B. O. 1844, arrêté of 6 February 1844, p. 65.
18. B. O. 1845, arrêté of 23 May 1845, p. 111.
19. B. O. 1856, arrêté of 6 August 1856, pp. 207-218.
20. B. O. 1856 arrêté of 6 September 1856, p. 226.
21. B. O. 1865, arrêté of 3 April 1865, pp. 116-119.
22. B. O. 1873, arrêté of 18 August 1873, pp. 414-416.
23. B. O. 1876, arrêté of 26 April 1876, pp. 245-265.
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25. B. O. 1884, arrêté of 21 January 1884, pp. 25-29.
26. B. O. 1889, arrêté of 1 March 1889, p. 189.
27. B. O. 1906, arrêté of 30 November 1906, p. 935.
28. B. O. 1907, arrêté of 3 April 1907, pp. 465-466.
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44. J. O. 1921, arrêté of 23 July 1921, pp. 410-423.
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50. B. O. 1904, p. 361.
51. P. V. Conseil Général 1938, pp. 375-376, 1939, pp. 195-258.
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54. P. V. Conseil Général 1941, p. 23.
55. A. R. 1963-64, p. 6.
56. Study Area Profile - Pondicherry Region (1973), p. 38.
57. A. R. 1956-57, p. 8.
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60. A. R. 1966-67, p. 10.
61. A. R. 1958-59, p. 7.
62. A. R. 1958-59, p. 7.
63. B. O. 1941, pp. 578-581.
64. Dr. N. V. Rajkumar : The Problem of French India, p. 19.
65. A. R. 1956-57, p. 8.
66. A. R. 1960-61, p. 13.
67. A. R. 1961-62 p. 13.
68. A. R. 1964-65 p. 6.
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70. A. R. 1965-66, p. 9.
71. J. O. 1938, p. 254.
72. J. O. 1938, arrêté of 2 June 1938, p. 722.
73. J. O. 1932, arrêté of 27 November 1932, p. 1327

74. J. O. 1947, arrêté of 18 December 1947, p. 6.
75. B. O. 1910, arrêté of 28 October 1910, pp. 852-853.
76. New Times Observer, 28 October 1974, p. 3.
77. A. R. 1959-60, p. 13.
78. J. O. 1943, p. 372.
79. Governor's decision of 10 January 1933, arrêté of 13 January 1934, p. 17.
80. Candau : Musique du Détachement des cipahis de l'Inde-Programme Annuel des concerts (1934).
81. A. A. 1827, pp. 249-250.
82. B. A. A. 1852, pp. 45-78.
83. B. O. 1867, pp. 45-78.
84. B. O. 1878, p. 410.
85. B. O. 1885, pp. 105-107.
86. B. O. 1889, pp. 114-115.
87. B. O. 1899, pp. 200-201.
88. B. O. 1899, pp. 310-328.
89. J. O. 1942, pp. 184-205.
90. B. O. 1866, pp. 362-364.
91. B. O. 1906, p. 430.
92. Gazette Extraordinary No. 112, dated 25 October 1971.
93. C. Minakshi : Administration and Social Life under the Pallavas (Madras, 1938), pp. 205-207.
94. K. A. Nilakanta Sastri : The Colas, Vol. II, Part I, p. 468. It is however not inconceivable that in a *vidyasala* of high repute, *manavadharma-sastra* was taught as a pure academic discipline while the law in force in the Territory mainly derived from local custom. Not long ago Indian universities, following the example of universities in the United Kingdom, used to include Roman law in their syllabus for legal studies.

95. K. A. Nilakanta Sastri : The Colas, Vol. II Part I, p. 261.
96. Idem, pp. 256-257.
97. T. V. Mahalingam, South Indian Polity, p. 201. Mahalingam thinks that the rulers probably demanded some specific contribution towards these expenses from the residents of the area where the temple was situated (Ibid).
98. Ibid, p. 201. An inscription of the same period gives us some ideas as what constituted *gramadroha* at least in the eyes of the sabha or Nalur, The *sabha* declared that those who acted against the interests of the village or of the temple and other institutions of the place were to be regarded as *gramadrohis*.
99. Chau Ju-Kua, p. 95 quoted in T. V. Mahalingam, South Indian Polity, p. 237.
100. An inscription from Anjaneri gives the usual rates of fines imposed for some offences. A fine of 108 *rupikas* was the punishment for outraging the modesty of a virgin, the same amount was to be paid if a merchant's son was found to have illicit connection with the women porter, should he be caught red handed ; 32 *rupikas* was the fine for adultery, 16 for mutilation of ear and 4 for bruising the head. (*Epigraphia Indica* XXV, p. 238, see Mahalingam, South Indian Polity, p. 239) There is at least one recorded instance of the imposition of a collective fine on a community for offences committed by members of the community. (*Epigraphia Indica*, XXII, p. 207, T. V. Mahalingam, *South Indian Polity* p 39.)
101. K. A. Nilakanta Sastri mentions, among others, death of a person resulting from an attempt at molesting someone else's concubine (The Colas, Vol. II Part I, p. 262).
102. 227 of 1904, cited by Sastri, op. cit. p. 263.
103. 64 of 1900 Sastri, op. cit., p. 263 and 200 of 1929, Sastri, op. cit. p. 264.
104. Taduttatkonda puranam, vv, 51-68.
105. K. A. Nilakanta Sastri, The Colas, Vol. II, Part I, p. 257-258 ;

106. Epigraphia Indica, Vol. V. cited in Mahalingam, *South Indian Polity* p. 202.
107. Epigraphia Indica, V, p. 28 cited in T. V. Mahalingam, *South Indian Polity*, p. 202. Mahalingam citing the Journal of the Bombay Branch of the Royal Asiatic Society, X, p. 177, refers to an inscription to substantiate the point that if a person died without leaving sons, his daughters were entitled to succeed to his property.
108. T. V. Mahalingam : *Administration and Social Life under Vijayanagar* p. 108.
109. Idem, p. 112.
110. Idem, p. 114.
111. Idem, p. 109.
112. Idem, p. 112.
113. A record of 1577 at Srivilliputtur gives details of how a dispute regarding boundaries of lands belonging to two temples was settled by a committee appointed for the purpose. The procedure followed was stated as follows : "Before the day appointed for settlement orders to assemble were issued to the parties to the suit. They brought their accounts and gnapakam (memos). The allegation of both the parties were inquired into, the lands were inspected and final orders were passed (Id., p. 118).
114. T. V. Mahalingam : *Administration and Social Life under Vijayanagar* P. 121
115. T. V. Mahalingam gives instances of such trials : see id. pp. 121-122.
116. Ibid.
117. T. V. Mahalingam : op. cit. p. 105.
118. Idem, p. 105
119. One may recall in this connection St. Thomas Aquinas' definition of human law as "ordinance of reason for the common good, made by him who has care of the community and promulgated". It is probably feasible to argue, as was perhaps done by the two sects at Vridhachalam, that when a king's or his agents' commands are not intended for the common good but are clearly contrary to it, they do not deserve to be obeyed : a corollary to this argument could be that the authors of the commands which are subversive of the common good should be treated as traitors or *nattudrohis*.

120. See however, the opinion of the Advisory Committee on Indian law which expressed the view that there was some rule of prescription under indigenous (customary) law, though it was not sure what exactly were the period of limitation or prescription in regard to various transactions. See preamble to the arrêté of 18 October 1838, issued by the Government of the French Indian establishments, B.O. 1838, p. 110.

121. T. V. Mahalingam : op. cit. p. 106.

122. See Sewell, *A Forgotten Empire*. pp. 380-381, quoted in Mahalingam, op. cit. p. 123.

123. T. V. Mahalingam : op. cit. p. 125.

According to an inscription found in the former Pudukottai State three persons accused of killing twenty men were tried by the *nattars* of four villages. (*Inscriptions of Pudukottai State* 818 cited in Mahalingam, op. cit. p. 125.)

124. See Major, *India in the Fifteenth Century*, pp. 31-32 quoted in Mahalingam, *Administration and Social Life*, op. cit., p. 122.

125. Mahalingam says that it is not clearly known if both parties were made to undergo the ordeal or the accuser or the accused person alone was subjected to it. (*South Indian Polity*, p. 223) But Ma Huan's account of a trial by ordeal which Mahalingam quotes refers only to such practices as "thrusting the finger of the *accused* into boiling oil" (*Idem* p. 224 fn. 71, emphasis added). See also the trial by ordeal of some Siva Brahmanas for theft of sacred ornament recorded in an inscription of the XIII century (*Inscriptions of Pudukottai State* 691, cited in Mahalingam, *South Indian Polity*, pp. 233-234). In a dispute of a civil nature to establish the right to the office of *Senabova* where a trial by ordeal took place, both parties were required to dip their hand in boiling ghee (*Mysore Archaeological Report* 1918, para 116, Mahalingam, op. cit. p. 225.).

126. T. V. Mahalingam, *South Indian Polity*, p. 213. One is reminded of the "conviction in time" required of the French magistrate before he passes sentence.

127. S. Varadachariar, *Hindu Judicial System*, p. 122, quoted by Mahalingam op. cit. p. 213.
128. T. V. Mahalingam : *Administration and Social Life*, op. cit. p. 126.
129. Inscriptions of the Pudukottai State, p. 867, quoted in Mahalingam, *Administration and Social Life*, op. cit. p. 127.
130. Sewell, op. cit. pp. 383-384, quoted in T. V. Mahalingam *Administration and Social Life*, op. cit. p. 126.
131. Amuktha, canto IV, V. 243, quoted in Mahalingam, *Administration and Social Life* op. cit. p. 127.
132. Epigraphia Carnatica, VII, ci. 69, mentioned in T. V. Mahalingam *Administration and Social Life* op. cit p. 127.
133. T. V. Mahalingam, *Administration and Social Life*, op. cit. p. 128.
134. T. V. Mahalingam, *Administration and Social Life*, op. cit. p. 129.
135. S. P. Sen speaks of "the transfer of the conseil souverain from Surat to Pondicherry" in 1701 (S. P. Sen, *the French in India, 1763-1816*, p. 104). It would appear that with the establishment of a separate conseil souverain in Pondicherry by the edict of 1701, the jurisdiction of the Council of Surat was reduced in relation to the settlements in the southern coastal region. [See H de Closets d'Errey, *Institutions religieuses et artisanales de l'Inde, son folklore* (1940), p. 7.]
136. See F. N. Laude, *Etudes sur les Origines judiciaires dans les Etablissements Français de l'Inde* (1859), p. 4, see also Gnanou Diagou, *Arrêts du Conseil Supérieur de Pondichéry*, Vol. VIII Supplement, p. 6 also Diagou, op. cit. Vol. I Introduction, p. ix.
137. The Conseil Supérieur when sitting as a court was referred to as Conseil Souverain, See Dodwell's footnote in Anandarangapillai's *Diary* Vol. V. p. 146.
138. F. N. Laude, *Etudes*, supra note, p. 6.
139. F. N. Laude gives two instances of such refusal, See *Etudes*, supra note, p. 5.

140. Its name was derived from *cavadi*, a word found in Tamil as well as in some other languages of the South of India.
141. F. N. Laude, *supra note*, pp. 7-8.
142. *Idem*, p. 8.
143. *Idem*, p. 9.
144. *Ibid*.
145. *Ibid*. Laude says that he was not able to find the regulation which laid down these punishments : he only found them enumerated in the record of a speech (*requisitoire*) of the Procureur Général made on 25 October 1766.
146. Disputes between Europeans and Franco-Indians or between two persons belonging to either of these classes were to be adjudged exclusively by the Sovereign Council.
147. See the Regulation of 5 May 1805, G. Diagou, *Arrêts du Conseil Supérieur*, Vol. VI, p. 384.
148. See *Idem* pp. 385-386.
149. F. N. Laude, *Etudes*, *supra note* p. 40.
150. Regulation for the Bureau of the Police at Pondicherry, G. Diagou, *Arrêts*, *op. cit.* p. 388.
151. *Délit* meant an offence punishable with a fine exceeding fifteen francs or imprisonment for over five days, but not exceeding five years.
152. There is a popular misunderstanding about this aspect of criminal procedure of the continental countries of Western Europe. For a detailed discussion of the presumption of innocence of the accused, see J. Minattur, "Innocence in the Dock" XXIV & XXV, *Punjab University Law Review* 46 (1972-1973) and "Criminal Procedure in France : Presumption of Innocence" XI *Indian Advocate* 13 (1971).
153. Subbash C. Jain : *French Legal System in Pondicherry*, pp. 586-589.

154. F. N. Laude, *Etudes* supra note p. 6.
155. F. N. Laude *Etudes* supra note p. 8. E. Gaudart : La Criminalite dans les Comptoirs français de l'Inde au XVIII ème Siècle (1937), p. xxv.
156. See Law of 25 Ventose, an XI, 3 (March 16 1803), An executory copy (*grosse*) is a literal copy with a declaration or certificate of the notary giving the instrument executory form.
157. L. Neville Brown "The Office of the Notary Public in France". International and Comparative Law Quarterly 60, 65 (1953).
158. F. N. Laude, *Etudes*, supra note p. 25.
159. See article 69 of the *décret* - B. O. 1887, p. 461-476.
160. E. Falgayrac : Législation de l'Inde lère partie, *Organisation Judiciaire*, p. 185.
161. See the *décret* of 3 September 1953.
162. See the Pondicherry (Extension of Laws) Act, 1968, (No. 26 of 1968) the Schedule, Part I published in the Extraordinary Gazette No. 56, dated 22 June 1968.
163. Title II, article 16-Règlement du 30 December 1769. See E. Falgayrac : *Législation de l'Inde* Tome II, p. 4.
164. Ibid Article 17, See also the Regulation of 27 January 1778.
165. Arrêt de Règlement of 1769, article 12. For quotation see F. N. Laude, *Manuel du Droit Indou* - 1869 Édition, pp. 190-191.
166. Arrêt de Règlement of 1769, article 5, quoted by F. N. Laude, op. cit. p. 24.
167. "Pondicherry : Babel of Personal laws" by David Annoussamy in the Journal of the Indian Law Institute, pp. 420-423 (1972).
168. Joseph Minattur : Justice in Pondicherry, (1701-1968) p. 123.