CHAPTER II

FUNCTIONARIES UNDER THE FRENCH AND THE INDIAN CRIMINAL JUSTICE SYSTEMS

(a) Police Under the French System in Pondicherry

Before the advent of the French some kind of civil police system was in existence in the Union Territory of Pondicherry and some features of it were allowed to continue during the French regime. The maintenance of law and order was entrusted with the ‘Nayinar’ who were the native Chieftains. De la Farelle mentions that the nawabs who visited Pondicherry were warmly received by the nayinar or grant prevot outside the town.¹ The office of the Nayinar was hereditary. However, a person found guilty of embezzlement would not be allowed to be a Nayinar. All the expenses of the Nayinar were borne by a levy on the goods and foodgrains entering the town by land or sea. As per the regulation of the sovereign council dated 20th March 1768 the levy on cotton, cloth, paddy, ghee, oil, groceries, fruits and vegetables was fixed at one per cent. The Nayinar got one-fourth of the levy. Governor Dupleix availed himself the services of these local Chieftains to patrol

¹. E.Lennel de la Farella: Memories et correspondance du Chevalier et du General de la Ferella, p.87.
the town during night to prevent robbery and thefts. Villages were guarded by chieftains with the assistance of pions who were empowered to arrest soldiers deserting the French army and also to apprehend enemy soldiers found within the limits of the French Territory.

The chief police officer (grand privet) maintained a body of mounted police (marchaux) for patrolling the town during night. On these days thefts and murders were few. One could move about the town at any time in the night without fear. So impressed was Le Gentil that he affirmed that it was not so even in Paris which could boast of a well maintained machinery. He described the Police under the regime of Law as remarkable. It was further stated by Le Genlil that the police du rues (traffic police) was responsible for the protection of natives (Pondicherry Indians).

In Karaikal, petty land lords known as visiadars performed the functions of police. As detection of thefts was their main responsibility, they often behaved like petty tyrants, plundering their own villagers and extorting ransoms from travellers. Hereditary right was followed for the

office of visiadars. Once, the French company had to intervene by force in the functioning of two Visiadars who claimed the right to exercise the functions of the police in a few villages taken over by the Company.³

The police organisation at Pondicherry was dealt by the reglement of 30th December 1769.⁴ It was replaced by the reglement of 20th June 1778 promulgated by the arrete of the 4th July 1778. The head of police force called as the Lieutenant de Police, was responsible for maintenance of law and order. He also sat in judgement over disputes which fell within the competence of the Choultry Court with jurisdiction extending over Pondicherry and its dependencies. The Nayinar had to report to the Lieutenant de Police the important events happening in the town and the details of Europeans entering or leaving the town. He was also responsible for rounding up prostitutes and for taking cognisance of unauthorised sale of slaves.⁵


⁴. The full text of this Regulation is not available.

The Lieutenant Police was responsible for maintaining peace and order in the markets, looking into complaints by masters against their servants, the use of correct weights and measures, inspection of shops, public eating places and slaughter houses, cleanliness of streets, destruction of dangerous buildings, etc.

For maintaining peace and order in the town and for apprehending the thieves the Nayinar retained as many pions as were required. He arrested those who had been running gambling houses and kept a watch over gamblers. He was also empowered to arrest delinquents and produce them before Bureau Municipal. Night patrol was organised by him with the help of Talayaris (Taillards) to arrest suspects who were found disturbing public peace after 10.00 p.m. The arrested persons were produced before the Bureau Municipal on the next day with a report stating the cause of their detention.6 As for the Armed forces, Francois Martin had decided as early as in 1676 to utilise the services of natives alongwith the European soldiers to defend Pondicherry against attacks by Maratha and Mughal forces. It was only in 1740 under Governor Dumas that the company assumed the role of a military power.

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Some minor changes were effected in the 1778 police regulation in 1786 and 1788. The outcome was Reglement General de Police of 1790. The police in the town and its outskirts was charged with the newly formed municipality. The Nayinars supplied pions to the municipality as usual. The supervision of the markets were with the Maniagars who kept a watch over supplies reaching the town and reported on its adequacy or otherwise. The offences like use of false weights and measures, adulteration, etc. were vested with the Inspector of Municipality who takes cognisance of the same for referring to the Bureau Municipal for annulment. The Sergent de Ville who accompanied the Inspector of Police while on patrol duty and the officers of Municipality during patrolling were empowered to arrest and produce all delinquents before the bureau of Municipality.

In 1742, the appellation of Sipaye was accepted for the first time when Dupleix organised the first unit of police effectively. It was found by him that the number of European soldiers at his disposal was too inadequate to accomplish his design of establishing French Supremacy in South India. Hence he decided to utilise members of the Kshatriya castes and Muslims to strengthen the ranks of his army. Some of the Maratha cavalrymen and negro regiments well known for their blind loyalty to their masters were also maintained by him. In 1748, the Delhi
Emperor conferred on Dupleix the title of Khan Mansubder Nabab Mazaffer which entitled him to raise an army and gave him right over life and death of all subjects within his domain and he also raised an army from among the native population who proved to be excellent fighters capable of great sacrifices.

The 1763 peace treaty in Europe brought down the strength of the French military force in Pondicherry to six battalions. The battalions were replaced by Pondicherry Regiment with eleven infantry companies and two autonomous artillery. Ten of these infantry companies consisted of ‘fuseliers’ and the eleventh one of ‘Grendiers’. Though all Grendiers belonged to the ‘Paria’ community the caste distinction which was maintained in the army was done away with as a sequel to the Royal ordinance of 28th January 1776. That ordinance which was introduced by Jean Law declared that recruitment to the army should be carried out without any distinction of caste or creed. The number of companies was reduced to ten and eleventh company consisting exclusively of ‘parias’ being absorbed into the other units. In 1783 there were five battalions of 1,003 men each and each battalion was headed by an European Commandant assisted by an European and a native officer. As it was desired by the King of France the number of Sipayes was reduced to 600. During the revolution they
were left with more police duties as bulk of the forces consisting of European had returned to France.

The police force came under the head of *commissaire judge de police* as the French regained the territory in 1816. Pondicherry and its dependencies, *vix*, Saram, Pakkamudaiyanpet, Ozhukarai, Olandai, Pudupalayam, Thengathittu and Ariankuppam areas came under his Jurisdiction. In the remaining areas of Pondicherry and the districts of Bahur and Villianur the Service due Domaine headed by *Receveur du domaine* was in charge of the Police. The *Commissaire judge de Police* referred the caste matters to the Governor. The town of Pondicherry was divided into five “Quarters” known as *Thana de Police* and each of them were manned by a *Thanadar* who was assisted by Pions. The law and order was maintained by them including the watch over the cleanliness of streets and thoroughfares. The Thanadars reported to the Nayinar about the dead bodies found on the thoroughfares or salvaged from water, incidents of fires, murders, serious Offences, sedition and unlawful assembly of persons. The pions and Thanadars were empowered to arrest delinquents, but, they had no power to release them without the approval of the *Commissaire Juge de Police*. From 26th October 1827, the jurisdiction of the *Tribunal de la Police* was extended to Karaikal town and all its
dependencies. *Juge de Police* had the control over the Karaikal town.
The Cotwals of Grand Aldee and of the other four maganams viz, Tirunallar, Nedungadu, Nallazhandur and Kottucherry were empowered petty judges to exercise the powers conferred on the bechecars of Villianur and Bahur to take cognisance of certain categories of offences and pronounce judgements thereon. The Bechecars were charged with police duties in the districts of Villianur and Bahur. From 1st March 1844, the administration took away the Magisterial and police powers from the Cotwals and the same was conferred on the Bechecars of the four Maganams of Karaikal. This was after seeing the efficiency by the Bechecars of Villianur and Bahur districts. They were assisted by pions whose strength was from 39 to 40 in 1845. One Chief pion and 39 pions consisted the personnel. The police set up in Pondicherry underwent a major re-organisation in 1856 and it was decided to entrust the police administration in the hands of senior officer holding responsible position. It was also decided to appoint a Mayor for Pondicherry for Municipal organisation. The Justice of Peace of Pondicherry was declared as Mayor of the town and he had the control over police. However he had to function under the authority of *Ordonnateur* officiating as *Directeur de l' Intérieur*. The Justice of Peace became the Mayor and the office of *Directeur de la Police* was held by him. Hence, he exercised control over the municipal police,
traffic and prisons, maintained peace among the various castes and kept a vigil over incoming and outgoing foreigners. The Ordonnateur and the Procureur General were furnished with a monthly report by the Mayor about the law and order situation in the town and in the districts. The duties of administrative and municipal police was carried out by the Inspectors, Nainard, Palegar and Thalavayes. The Chief Bechacars of Villianur and Bahur officiating as Nainard and the seconds-bechacars acting as Paleagar and Talearis exercised the powers of administrative police in their respective districts. The exclusive control of rural police was under the chief Bechecars.

Two posts of Inspector of police were created by abolishing the post of commissioner of police during the new dispensation. Both the inspectors who controlled the entire area of Pondicherry were also assisted by the Nayinar, Paleager and pions whenever there were breaches of peace. They also kept a watch over weights and measures and gambling dens apart from inspecting the prison and supervising the market. The maintenance of peace and order was with the thalavayes in their jurisdiction. The police administration in Pondicherry region was divided into eight divisions. They were (1) Abisekapakkam, (2) Ariyankuppam, (3) Alankuppam - Kalapet, (4) Bahur, (5) Olandai, (6) Ozhukarai, (7) Sarampakkam - Odiyambattu, (8)

Besides attending the duties of judicial police, the Paleagar also functioned as Inspector of Police of security and also represented the Nainar on certain occasions. A check on the quantum of supplies arriving in the district of Pondicherry and night patrol was carried out either by the inspector or by Nainard or by the Paleagar in turn according to a schedule drawn up by the Mayor. In the district of Pondicherry the Nayinar exercised control over the Thalavayes, the Chief Pions and Sous Chef-Pions the pions and night patrolmen. Special powers on matters of worship, customs and privileges of the Indians were exercised by the Nayinar. The matters relating to employers and employees fell within his purview. The register of interpreters, policemen (Pions), workmen, metis, cooks, gardener, thotties etc., was maintained by him in order to make their services available whenever required. He also inspected the hotels and reported the functioning of unauthorised gambling houses to the inspectors.
The two Cotwals placed under the joint supervision of the inspector, Nainard and Paleagar maintained law and order in the market. They ensured the proper maintenance of stalls and the availability of commodities. They were assisted by Aminahs who maintained an account of the foods entering, sold or remaining unsold in the town and prevented the use of false weights and measures on requisition by travellers. They placed at their disposal, Palanquin bearers, coolies, carts and bullocks at the prescribed prices. The Mayor, the Inspectors, the Nainars, the Bechecars, the Paleagars, the Bechecars en second, the Thalavayes and the Thaleari also formed part of the Judicary and such were subordinate to the ministere public. The Code d’Instruction Criminelle and the local arretes defined their duties and responsibilities. Within a month of this re-organisation, the cadres of night patrolmen and pions of police were dissolved, and were organised into a single corps consisting of Thabedars, Thanadars and Gardes de Police in the order of hierarchy. The responsibility of maintaining of law and order, prevention of crimes and enforcement of laws and regulations in force in the town and its dependencies were with the corps who are divided into “Esconades or Postes.” The organisation of the personnel of Gardes de Police was dealt with by the arrete of 3rd April 1865.
The functions of the Mayor and Directeur of Police earlier vested in the juge de paix (Justice of Peace), were taken away with effect from 1st September 1873 and the person newly appointed by the Governor on the same date as the Mayor was declared Chef du Service de la Police. In 1873 on Ferrier, Juge de Paix, Officiating as Mayor and Directeur of Police, was appointed Chef de service of Yanam. The change of nomenclature did not alter in any way the functions hitherto performed by the Mayor as Directeur de la Police, except the abolition of the title. The accumulation of the functions of three officials vested with one in the year 1856 stood reduced to that of two functionaries in 1873. The police set up was widened on 25th April 1876 in order to include the police organisation hitherto under the control of Bereau du Domaine. The Bechecar-en-chef and Bechecar-second, the police functionaries of Bureau de Domaine, had extended jurisdiction of the Bahur and Villianur districts. A new system of hierarchy and unity of command was devised with a Directeur de la Police at the top to be assisted by two commissaires de Police in the district of Pondicherry and two Commissaires de Police in the districts of Bahur and Villianur. During those period the candidates of 'respectable' castes alone were eligible for recruitment to the police. Their nature of functions covered the administrative police, the municipal police, the rural police and the judicial police.
The nayinar stationed at Pondicherry looked after the administrative and judicial police. Hence, their responsibilities and activities were confined only to the claim or complaints made by native population. All Thalavayes were assigned to the district of Pondicherry, Thabedars and Thanadars were also placed under the Nayinar's control. Their daily reports were perused and reported by him to the Directeur de la Police. On the other hand the Paleagar was responsible for crime investigation and such other functions connected with the judicial police. The availability of commodities and their movements were watched by him with the assistance of Cotwals. The Ordonnateur - Directeur de l' Intérieur had the control over the Directeur de la Police Judiciare taking orders from the Procureur General or Procureur de la République. He also exercised control over the prisons. The commissaires de la police were also Officers de la Police Judiciare who took their orders from the Directeur de la Police. Their subordinates were incharge of administrative and rural police in the districts of Bahur and Villianur. However, they enjoyed as much power as exercised by the Commissaires de Police within the area of their jurisdiction apart from maintaining a watch over foreigners, Corwas, beggars, etc, found in the area. As the arrete 1876 was partly modified on 2nd May 1877, pending the establishment of a Municipal
organisation, the posts of the Mayor and the Directeur de la Police were abolished.

Then the Chef du Service des Contributions, head of the revenue department took over the functions of the Mayor and the Functions of the police were centralised in the Bureau de l’ Ordonnateur, Director de l’ Intérieur. The arrêtes of 2nd June 1878, 8th may 1885 and 1st February 1886 brought about minor changes subsequently. However a separate brigade was formed in 1884 to carry out the functions of the municipal police in Pondicherry and the local denominations like Paleagar, Cotwals, etc, were given up since May 1885. On 1st March 1889 the administrative, judicial and municipal police of Pondicherry region were brought under a joint set-up concurrently responsible to the Directeur de l’ Intérieur, Procureur General and all Maires (Mayors) respectively. The Commissaire de Police General became the highest police official. The municipal brigade was placed under the orders of the Mayor of Pondicherry. The caste restrictions for recruitment to police were removed and the responsibilities of the various officers were defined.
Subsequent amendments were made in 1897 and later on in 1906, in the arrete of 1st March 1889. A separate brigade was set-up on the 28th May 1886 to attend the functions of Municipal police in Karaikal. The Police administration of Karaikal region was streamlined by a series of arretes.\[^7\]

Also, the police set up in Mahe and Yanam was established and administered in accordance with the arretes. The control over the administrative and judicial police was conferred on the Commandant d'armes by the arrete of 3rd November 1906, and the same paved the way for the rationalisation of the Cadre and distribution personnel. In 1907 a common cadre was created for the police forces in Pondicherry and Karaikal establishments and during the month of April the office of the Commissaire de Police was shifted to the caserne des Cipahais.

The Governor took over as commandant de la Place on 20th September 1861 and the Military Officials were placed under his direct control. Further changes in the set-up of the armed forces was made during 1867. For the first time in 1908, the armed police came to have

\[^7\] Arretes dated 3rd April 1865, 20th June 1872, 11th April 1877, 9th February 1884, 18th May 1885, 1st February 1886, 11th June 1891, 20th February 1892, 1st July 1893, 8th February 1896, and 31st May 1990.
a small unit of mounted police. In 1910 the Municipal brigade was abolished and those found fit were absorbed into *Gendarmerie Indigene*. But in 1921, it was abolished on the ground that it did not meet the actual requirements of the French possessions in India. The Governor was then authorised to provide for an alternative Force to carryout the functions of the administrative, judicial and municipal police. Consequent upon the abolition of *Gendarmerie Indigene* a new police force was organised on 23rd July 1921 to discharge the administrative, judicial and municipal police duties under a *Chef de Service* assisted by another officer. The police personnel consisted of a superior cadre of *Inspecteur, Sons-Inspecteur adjudants* and a lower cadre of *Brigadiers and Gardes*. This police force consisted of three formations viz, *Police Generale, Police de la Surete* and *Agents Cyclistes*. The functions of the administrative police municipal police and judicial police were looked after by *police generale*. The administrative police had the responsibility of enforcing rules and regulations of the land. It also maintained vigilance over public warships, sedition, public cleanliness and press, etc. The functions of Judicial police were defined by the penal code. The municipal police looked after public hygiene and the demolition of dilapidated buildings. There was also a formation called *'Police de Reserve'* to guard the
Government Houses the Prisons, etc, and to attend fire fighting operations.

It was the Third Company of the eleventh Regiment of Infanterie Coloniale force established in 1900 that was brought to Pondicherry to meet the situation, in the context of the labour movement in 1936. The events from 1937 had proved the inefficiency of the local police to maintain law and order in the establishment. In the year 1947 an important change took place in the police force when *Le service de la Police et de la Surete* was converted into *Section de la Gendarmerie Auxiliaire Indigene*. (Compagnie de Cipahis) and *Section de la Gendarmerie Auxiliare Indigene* were brought under a unified command to be known as *Forces Publiques des establissement francais dans l'Inde*. Consequent to this reform, it placed both the wings under a unified command and thereby facilitated a reduction in the number of police personnel. This helped the government to reduce expenditure and give effective training to the limited force. All kinds of law and order problems in the establishments were tackled by both the Armed police and Civil police. After merger of Pondicherry in the Indian union the entire police force in the territory of Pondicherry was placed under the command of an Inspector General of Police. He was an Officer of the rank of Superintendent of Police from Tamilnadu. The police force
in Pondicherry and Karaikal functioned under the supervision of a Superintendent of Police and the armed police functioned under the direct control of a commandant. To assist the local police, a company of the Malabar special police was also stationed at Pondicherry. In accordance with the French regulations the police administration was carried on till 30th September 1963. After the extension of Indian laws to the territory of Pondicherry from 1st October 1963, Police administration followed the provisions of the Indian Police Act, 1861.

The Police System under the French

There were various independent police forces under the French System. Every police force was divided into two classes,: the ‘Police judiciare’ and the ‘Police Administrative’. The Police judiciare were charged with investigation of crimes for collecting evidence and tracing the offenders. The police administrative were responsible for maintaining law and order. They came under the control of the administrative authorities, like the Marie or the Prefet in the first instance. The police judiciare were subject to the control of the procurer de la Republique, unless pre-trial inquiries were being made by a juge d’ Instruction, in which case they came under the control of the latter, acting under his orders, and powers delegated by him. The division between the two types of police was not absolutely rigid and a
member of the Police Administrative seeing a criminal offence being committed would proceed to deal with the matter as if he were a member of the Police Judiciare.  

The municipal police were controlled by local authorities: surete National were ultimately responsible to the Minister of the Interior; the campagnie Republicane de Securite was responsible to the Minister of the Interior; the Gendarmerie was controlled by local authorities.

In the police Judiciare, officers have much greater powers than the ordinary members (Agents). Their power included reporting direct to the Procureur de la Republique, instituting enquiries on their own initiative, receiving delegated powers from a juge d' Instruction and in certain urgent cases, commencing formal judicial enquiries prior to the arrival of the Procureur de la Republique or juge d' Instruction. The ordinary members (Agents) of the police judiciare merely had the power to decide whether an offence had been committed, took statements and reported through their superior officers to the Procureur de la

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8. In Paris, the Police Judicature are organised into geographical units, each 'arrondissement' containing 3 or 4 Commissariats' each headed by a Commissaire who is an office of the Police Judiciare. The Parisian Police Judicial affairs, offences concerning minors, etc. and a Brigade Territorial, consisting of experts, for dealing with very serious or complex cases. Depending on the circumstances of each case, the investigation may be made either by the local Police judiciare or by a specialist section, or the Brigade territorial.
Republique. The officials of Maire, forestry officials, the Procureur de la Republique and numerous others who were not members of the police force also had the powers of Officers of the Police Judiciare.

The majority of criminal offences were reported by the public to the police, who in turn reported it to the Procureur de la Republique. The police were the commonest source of the Procureur's information. In Paris and other large cities of France the Procureur insisted that all offence made known to the police were in turn reported to him, regardless of whether there was enough evidence to identify the accused, and as a result the Procureur could follow the progress of the police inquiries if he so desired. In provincial areas, other Procureurs left the police with more discretion, and apart from serious offences, they only insisted that offences were reported when there was sufficient evidence to identify an accused although the Procureur only might decide that no further proceedings should be taken. A report known as a Procedure was sent by the police to the Procureur. It contained the name and personal details of the accused, the nature of the charge, and a summary of the facts of the case which commenced with summary usually made by a commissaire. The summary (Rapport) was followed by process Verbaux. The said process verbal was a formal document, usually pressured by an officer of the police judiciare.
recording the steps he had taken or the evidence he had obtained. It must be written shortly after the events had been recorded and transmitted to the Procureur with the minimum of delay: It was necessary that it was dated with the name, address and signature of the author.⁹

The police report submitted to the procureur usually contain ‘Proces verbaux’ recording of following - interviews of the witnesses by an ‘officer’ of the police judiciaire, where-in the officer gives the personal particulars of the witness, the time and the place of interview. It also contained the verbatim statements of witnesses, the questions put to the witnesses with the answers thereto and signature of both the witnesses and the ‘Officer’. The said report also contained the particulars about the seizing of things by the officer, the initial interview of the accused by an ‘Officer’ of police judiciaire and the information about his detention to custody from time to time with brief reason. In that process verbal signatures of both the Accused and the Officer would be made. After the final enquiry the entire police report will be transmitted to the procureur.

⁹. Proces verbaux’ are survival of the times when illiteracy was common, so that a witness required to give his evidence verbally to the authorities who give recorded the same immediately on receipt.
THE POLICE AND THEIR FUNCTIONS UNDER THE PRESENT SYSTEM

The Police Act of 1861 purports "to reorganise the police and to make it a more efficient instrument of the prevention and detention of crime."\(^{10}\) The police force, thus is expected to be efficient both in prevention and detection of crime. Section 23 of Police Act, requires every police officer to prevent the commission of offence.\(^{11}\) It also prescribes the duties of every police officer and one of the duties mentioned is to collect and communicate intelligence affecting public peace. Every state Government establishes its own police force consisting of such number of officers and men in such manner as the State Government may decide from time to time. The Inspector General of Police is vested with the overall administration of police in the entire state. The district Superintendent of Police administers the police force for districts under the general control and direction of the district Magistrate who is usually the Collector of the District. The criminal procedure code confers specific powers like power to make arrest, search, etc., on the members of the police force who are enrolled as police officers. The officers in charge of the police stations have been given wider powers as they are required by the code to play a pivotal role in the investigation and prevention of crime. The police

officers superior in rank to an officer in charge of a police station can exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such a station house officer within the limits of his station.\textsuperscript{12} Section 22 of the police Act of 1861 lays down that every police officer shall, for all purposes of police Act be considered to be always on duty.\textsuperscript{13} In short it is the duty of the police to prevent the commission of crimes, to maintain peace, law and order, and to collect such evidence as would be sufficient to bring home the guilt of the accused in a court of law, to decide whether a charge should be laid in a court of law and to present the available evidence in a court of law.\textsuperscript{14} It is for the court to decide whether the accused is guilty or not.

A police officer is under no obligation to arrest a man against whom proceedings have been directed unless he believes that there are sufficient grounds for apprehending him. It is the duty of every police officer to prevent the commission of cognizable offence. Under

\begin{itemize}
  \item \textsuperscript{12} See Section 6 of Cr.P.C. (1973).
  \item \textsuperscript{13} \textit{State of Haryana Vs. Phula Ram} (1972) 74 LR 1004.
  \item \textsuperscript{14} See Section 23, Police Act 1861.
\end{itemize}
section 149 of the Criminal Procedure Code, a police officer shall, to
the best of his ability, interpose and prevent the commission of such
offences.

A police officer can apprehend or arrest only those persons
"Whom he is legally authorised to apprehend" and that too on sufficient
grounds. The legal authority to arrest is circumscribed by the
provisions of section 51 of the code of Criminal Procedure and can be
exercised only in cases of cognizable offences, where their commission
cannot be otherwise prevented.\textsuperscript{15}

The Police Act 1949 created a new police force for the Union
Territories following the pattern of Police Act of 1861. The Police Act
1888 also enables the Central Government to create a special police
district embracing parts of two or more states and to extend to every
part of such district the powers and jurisdiction of a police force
belonging to a state specified by the Central Government. The same
could be done with the concurrence of the State Government
concerned.

\textsuperscript{15} Mohamed Ali \textit{v. Sri Ram Swarup}, AIR 1965 All 161 at 165.
The Criminal Procedure Code of India confers the powers to make arrest, search, etc., on the members of the police force apart from the wider powers to the police officers incharge of police stations. The term police station is defined under section 2(s) of the Criminal Procedure Code. It has been purposely broadened to show the importance of the duties of the Station House Officer and the concern of the code for their prompt discharge, As per section 36 of the Cr. PC, police officers superior in rank to an officer incharge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by the such officer within the limits of his station.

After investigation of the case if the Investigation Officer of the case finds it as a suitable case for trial, he lays charge sheet against the suspects and thereafter trial is started by the courts. During the course of investigation apart from arrest in cognizable cases and search police also recovers the case properties involved in that case so as to prove the case in the court of law.

(b) ROLE OF THE PROSECUTORS - UNDER THE FRENCH SYSTEM

The French System of public prosecution hinges upon the public prosecutor (Procureur de la Republique). His functions and responsibilities were multifarious. They were:-

1. Receiving of complaints about the alleged criminal offences both from the police and from general public.

2. Taking of all necessary steps to investigate the alleged offences, sudden or suspicious deaths, fires, train accidents explosives etc. for these duties he had all the powers of the police. He could also direct the police to carryout those duties.

3. After investigation of an offence, he had wide powers of discretion to decide what future action should be initiated. It was he who decided the question whether or not a juge d' Instruction should be asked to investigate the offence.

4. He had to conduct all proceedings, in person, in the tribunal correctional and he was responsible for all proceedings in the tribunal de police. He had great freedom, during trial, to state his personal views, or to drop proceedings. Although the court might continue the case despite the wishes of the Procureur, in practice it would never do so. His views were given due importance.
5. The Procureur had the responsibility of enforcing the sentence, if the accused was sentenced.

6. He had the discretion as to whether or not to appeal the disposed cases.

7. He had a general duty of ensuring maintenance of law and order in his district. For this purpose he must keep himself informed of what was happening by means of regular reports from the police. Specifically, he received reports of all events likely to give rise to future troubles and crimes that could be committed in his area.

8. He also had a number of functions not connected with criminal law. They included taking interest in any civil case concerning legal status, the management of affairs on behalf of minors or other persons suffering from legal incapacity or any other civil law case where the court itself decided that the views of the procureur should be obtained. He also had a supervisory role over 'avocats' and could report any breaches of discipline to the local faculty. He dealt with the requests for changes of name, and permission to marry underage or without parental consent.

He also had some supervisory duties in connection with mental hospitals apart from assisting in the award of legal aid in civil cases.
9. He, as an independent 'Magistrate' could protect the public against any over zealous activity of the police. By judicious use of his decision to take proceedings, he ensured that the courts were not over-burdened with cases unworthy of pursuit.

In a nutshell, the Procureur had the responsibility of investigating criminal offences and instituting proceedings.

In the Tribunal de police (police courts) the procureur de la republique conducted the cases on behalf of the prosecution if the offence carried a penalty in excess of ten days imprisonment or a fine of 400 francs; For the other offences the prosecution was conducted by a senior police officer (Commissaire) specially designated for this task by the procureur general. The Procureur de la Republic had power to control, supervise and to intervene in prosecutions conducted by the senior police officers.

In the Tribunal Correctionel the Procureur de la Republic conducted the prosecution with the help of deputes (subsituts)

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17. In Paris, such commissaires have legal qualifications; elsewhere this task is merely undertaken as part of normal duties.
depending upon the size of the court. They were divided into three divisions each headed by a 'procureur adjoint'. Each division was subdivided into sections, each section having a specialised function - e.g. financial cases, sex offences, etc., The administration was controlled by a 'Secretariat' which had two substitutes and premier substitute. In addition, there was clerical and Secretarial staff.

The prosecution was conducted by the procureur general de la Cour d’Appel, as the cour d’Assises those situated at Pondicherry as a cour d’appel. If the court is situated elsewhere, the procureur de la republique conducted the prosecution. But, in some exceptional cases, the procureur general from the nearest Cour d’Appel also conducted the prosecution in such courts. In Cour d’Appel the public prosecution was conducted by Le Parquet Pre’s de la cour d’Appel, consisting of a Procureur general, ‘avocats generaux’ and ‘avocats deputes’. For court appearances the ‘avocats generaux’ are preferred and the ‘avocat deputes’ are preferred for administration.

In the Cour de Cassation the prosecution on behalf of the State was conducted by Le Parquet Press de la Cour de Cassation, consisting of the Procureur general and Seventeen ‘avocat generaux’.
The right to investigate and prosecute was given to the Procureur de la Republique. The Ministere Public was responsible for undertaking all prosecutions on behalf of the state. He appeared in all criminal courts and all decisions of a criminal court must be made in his presence. He also ensured that the court's decision was enforced. He was responsible to and subject to the control of the Minister of Justice who issued instructions concerning administration, the general conduct of prosecutions, or specific instructions, concerning a particular case. The minister of Justice being a politician with no legal training, paid great attention to the advice and suggestions of the Procureur who was considered to be an expert in this field.

The Minister of Justice issued circulars through his Ministry advising how particular types of cases should be handled.

2. PROSECUTOR - UNDER THE INDIAN SYSTEM

Though the immediate victim of a crime may be only an individual, crime is considered to be an act against the society as a whole. That is why the state comes to the rescue of the victim and represents him in the criminal courts. The representation is done by
the public prosecutor. Thus the public prosecutors and Assistance public prosecutors conduct also appears as State Counsel in criminal appeals, revisions and other matters in the court of sessions and High Courts. They also have the authority to appear and plead before any court in cases entrusted with them. Apart from giving advice to the police or other Government departments when required they also can withdraw from the prosecutions against any person with the consent of the court.\textsuperscript{18}

As per the Criminal Procedure Code, 1973\textsuperscript{19} for every High Court, the Central Government or the State Government, shall, after consultation with the High Court, appoint a public prosecutor and may also appoint one or more additional public prosecutors, for conducting prosecution, appeal or other proceeding on behalf of the Central Government or State Government, as the case may be, the Central Government may appoint one or more Public Prosecutors, for the purpose of conducting any case or class of cases in any district or local area.


\textsuperscript{19} Section 24 of the Criminal Procedure Code 1973.
For every district, the State Government shall appoint a Public Prosecutor and may also appoint one or more additional Public Prosecutors for the district.  

The District Magistrate shall in consultation with the Sessions Judge prepare a panel of names of persons, who are, in his opinion, fit to be appointed public prosecutors or Additional Public Prosecutors for the District. No person shall be appointed by the State Government as the Public Prosecutor or Additional Public Prosecutor for the district unless his name appears in the panel of names prepared by the District Magistrate. However, in a state where a regular cadre of Prosecuting officers exists, the State Government shall appoint a Public Prosecutor or an Additional Public Prosecutor only from among the persons constituting such cadre. If in the opinion of the State Government, no suitable person is available in such cadre for such appointment, the Government may appoint a person as Public Prosecutor, as the case may be, from the panel of names prepared by the district Magistrate. However a person shall be eligible to be appointed as a Public Prosecutor or as an Additional Public Prosecutor only if he has been in

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20. It has been categorically rules by the Supreme Court that the office of the Public Prosecutor assumes much importance and that appointments to them should not be dependant on the whims and fancies of the state governments; *Sri Rakha Vidyadri v. State of U.P.* (1991) 1 SCC 212.
practice as an advocate for not less than seven years. The Central Government or the State Government may also appoint, a person who has been in practice as an advocate for not less than ten years as a Special Public Prosecutor, for the purpose of any case or class of cases.

The State Government shall appoint in every district one or more Assistant Public Prosecutors for conducting prosecutions in the courts of Magistrates. The Government may also appoint one or more Assistant Public Prosecutors for the purpose of conducting any case or class of cases relating to its area/sub jail in the courts of Magistrates. But, no Police officer shall be eligible to be appointed as an Assistant Public Prosecutor. The District Magistrate may appoint any other person to be the Assistant Public Prosecutor incharge of the case. Provided that a Police Officer shall not be so appointed, (a) if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted; or (b) if he is below the rank of Inspector. 21

The appointments of the Public Prosecutors are made by the Government for a tenure of 3 years. There is one Public Prosecutor

21. Section 25 of Cr.P.C.
and two Additional Public Prosecutors at the Pondicherry District. There is an additional public prosecutor at Karaikal District. There are six Assistant Public Prosecutor for the Judicial Magistrate Courts for the whole of the Union Territory. Out of them three are at the Head Quarters. The remaining criminal courts at Karaikal, Mahe and Yanam are served by one Assistant Public Prosecutor each from among the remaining three.

The Public Prosecutor and the two additional public prosecutors are stationed at the Head-Quarters while the other Additional Public Prosecutor is at Karaikal. There are three sessions courts at the Head-quarters of Pondicherry and one Sessions Court is situated at Karaikal. There is a Chief Judicial Magistrate Court at Pondicherry apart from a Sub-Divisional and a First Class Judicial Magistrate Court. For each court there are separate Assistant Public Prosecutors for conducting the cases. Out of the six Assistant Public Prosecutors of the state, at Present two are full time salaried persons. Till their retirement they can hold the office. Others are only part-time officers whose tenure is subject to renewal after the expiry of the contract. Recently one Assistant public prosecutor is deputed as Deputy Director of prosecutions at the Directorate of Prosecutions.
The whole system of Public Prosecution at Pondicherry is now controlled and supervised by the Directorate of Prosecution, headed by a Director of Prosecution. There is also a Deputy Director of Prosecution to assist the Director of Prosecution. Both of them were appointed on deputation basis. A senior sub-judge is deputed as the director of public prosecutions while the office of the Deputy Director of prosecution is filled up by deputing an Assistant Public Prosecutor.

(c) APPOINTMENT OF PRESIDING OFFICERS OF THE CRIMINAL COURTS AND THEIR FUNCTIONS:

UNDER THE FRENCH SYSTEM

There was a hierarchy of criminal courts in French system. The court of cassasion was the Apex Court and under it were the courts of appeal (Cour d” Appel ), session court (cour d’ assises) , correctional courts (Tribunal Correctionnel) and the police courts (Tribunal de police). Apart from these courts there was also a section of court d ‘ appel by name Chambre d’ accusation to decide the remittance of cases to the to the Cour d’ accusation. The Apex court was only at Paris.

There were two methods of entry into service as Magistrate. One was direct recruitment and the other was by entering L’ Ecole Nationale de la Magistrateture through an examination. The latter
method was more common. There was an Ecole Nationale de la Magistrate at Pondicherry. Those who wanted to Join the court joined this institute so as to become magistrateture.

(a) DIRECT ENTRY:

An 'avocat' (advocate) with ten years experience might apply to become a magistrate and such applications were considered by a commission constituted for selection. Direct entry was considered as a desirable alternative to entry from L' Ecole, since it allowed widening of the spectrum of candidates to the Magistrate. By tradition, some Magisterial posts had always been given to distinguished men of law. By custom, one of the foremost professors of law was always appointed as a judge in the court of cassation.

(b) L’ ECOLE NATIONALE:

The 'Le Centre National d’ Etudes Judiciaires' of France was called as L’ Ecole Nationale and it was established in Bordeaux in 1958 to place the Magistrate on a similar footing with other branches of public service, such as the diplomatic corps, which had similar establishments. L’ Ecole was a success from the outset and except 20% to 25% of 'Magistrates' strength qualify in this way. The candidates must posses a Licence en droit, to obtain entry. Apart from
some exceptions the maximum age was fixed as 27 years. Prior to entry, the candidate if he wished, might pursue a preparatory course run by the *Institut d'etudes Judiciares* during the third year of his university studies at any of the universities, but that course was not a compulsory one. A competitive examination was conducted for the candidates who possessed the basic entry qualifications to sit for the same. The entry examination was both written and oral. The written part consisted of five or six hour papers on civil law, criminal law, translation from a foreign language, and a general subject of political, social or economic importance. The oral part was conducted by a board composed of a general subject of political, social or economic importance. The oral part was conducted by a board composed of the President of the court of cassation, a member of the Conseil d'Etat, two law professors, a serving Magistrate and in certain cases the head of a department in the Ministry of Justice. On various legal subjects the candidate was examined and he might also be asked the questions of general nature to see how he responded under stress. However, some well qualified candidates might be admitted by dispensing with such examinations. A Candidate successful in the examination was called as 'Auditeur de Justice' and had certain rights and privileges. He was subject to the control of the Minister of Justice from whom he received
salary and other financial allowances, including the cost of robes, etc. He had to take magisterial oath.

The 'Auditeur' underwent a course, at L' Ecole, lasting twenty eight months made to fit him for his Magisterial duties by giving him specialist training so as to broaden his general experience and outlook. He would be attached to an 'Avocat', a Notaire, the police and either a prison or Juvenile detention centre for the first six weeks of the training. Thereafter he was taught legal procedure and other legal topics of current interest and importance, covering a wide-field, the common market, drugs, labour relations, psychiatry, forensic medicine, etc. Private study, visits, seminars, group discussions and lectures by experts are also attended. Two months of the course are always spent at the Courts for examining the functions of a 'Magistrate'. The course may vary from year to year in its content. At the conclusion of the course, the 'Trainee Magistrate' spent sixteen months obtaining practical experience, spending three months in the office of a procureur de la Republique, three months with a judge, two months with a juge d' Instruction and one month with a juge des enfants. During the course, the trainee Magistrate would perform most of the functions of the Magistrate such as conducting simple criminal trials, sitting on the bench as one of the three Judges, etc. Apart from this, the trainee
must spend fifteen days working as a labourer in a factory, in a bank, and in local government all intended to give him a personal insight into the problems and activities of the everyday world. During the last two months of the course the candidate (Auditeur) would visit various French institutions such as the Ministry of Justice, Le senat, L' Assemblee Nationale. As a general rule the candidate was asked to select one of the limited number of specified subjects of topical interest such as drugs or road accidents, and would examine all aspects of the problem. For instance, if he chose drug trafficking, he would visit psychiatric hospitals, accompany the police, assist in the drafting of any new legislation, attend parliamentary debates, and participate in any conferences on the subject. At the end of the course at L'Ecole, the 'auditeur' (Trainee Magistrate) underwent written and oral examinations of a very practical importance. The L'Ecole was in existence at Pondicherry. Those who wished to become Judicial officers could pursue the course at Pondicherry itself.

APPPOINTMENT AND DUTY STRUCTURE

After completing their training, the magistrate - trainees were placed on a list in order of merit which was published in the Journal Official. Successful candidates were then appointed to function in the second grade of the lower division of the judiciary by the President of
the Republic on the recommendation of the Minister of Justice. Officers in the second grade, lower division, were chiefly judges of courts of first instance and the courts of grand instance, and the deputy procurators. In the upper were chief judges of the court of Grand Instance in the Department at Paris, the Presidents, Vice Presidents, procurators and Deputy procurators of courts of Grand instance, and judges-Directors in courts of first instance. In the lower division of the first grade were mainly judges of courts of appeal; in the upper division were mainly judges of the court of Appeal at Paris, the Vice-President of the court of court of Grand Instance in the Department of Paris, Presidents of Chambers and advocates General in courts of Appeal. Above these two grades were placed chiefly by judges of the courts of cassation, first presidents of courts of Appeal and procurators general in these courts and Presidents of Chamber in the court of Appeal of Paris and Advocates-General in the court.

Thus, Judicial Officers served either as judges or as Procurators who form the ‘parque’. They might move freely from one role to other. Those who actually held judicial position might be transferred or even promoted only with their consent. A commission of promotion used to prepare list of officers eligible for promotion. Promotions were given every year. The French term 'Magistrate' embraced both the judiciary
and the public prosecutor. The judiciary was known as the ‘Magistrature assise’ or Ministere Public’ or the Magistrature debout or more commonly ‘Le parquet’. The judiciary and the public prosecutor had equal privileges, status and salary. Interchange between the two branches was simple and common. In name, a judge or public prosecutor regarded himself as first and foremost a ‘Magistrate’, the particular duties whether they be on the bench or on prosecution being of secondary importance and not conferring any rank or privilege over the other. The prosecutor did not regard himself as being inferior to the judge; on the contrary, the judge, being equal in status to the prosecutor was independent of him and was not required to comply with his requests or suggestion. Both the judges and the prosecutors used to sit on the same level, and wear similar robes and the prosecutors would stand when addressing the courts. As the French courts had a bench of three judges, it followed that there were approximately three times as many judges as prosecutors. Some of the Magistrates were also posted in the administrative post in the Ministry of Justice.

In the French judiciary there were no part-time offers or lay Magistrates. There were only full time judicial offices manned by professional Magistrates. Except for the Chambre Criminelle de la
Cour de cassation, most judges were both in civil and criminal courts. The role of the judge in court was to elicit all the evidence by examining the accused and the witnesses to decide any legal issues; to decide on the verdict and sentence. Once appointed, a judge could not be removed from office unless he committed any serious offence or breach of duty or became infirm. Breaches of discipline were considered by the Conseil Superieur de la Magistrature of which the president was the President de la Republique, and the Vice President was the Minister of Justice. The Conseil had nine other members, of whom seven were Senior Magistrates.

The salary and status given to the senior president of the Tribunal de Grande Instance (Tribunal Correctionel) were identical to those given to the Procureur de la Republic in the same court. The salary and status given to a Magistrate depended on his grade and not on whether he was on the bench or acting as Prosecutor. A newly appointed Magistrate would start on the lowest salary scale of the second grade and move to the next highest scale each year, so that even without promotion he would reach the top scale on the second grade; in due course, he would automatically be placed on the first grade and after 23 years of service he might reach the salary scale third from the top of the first grade, which was the highest he might go
without promotion. A personal 'Report' was kept on every Magistrate starting with his entry to L' Ecole Nationale. In it, the assessments such as Knowledge of the law, relations with the public, ability to organise were rewarded by giving marks. Promotions were made upon the applications made by the Magistrate in the event of arising of a vacancy after a careful verification of Dossier of the candidates. Tenure of the office of Magistracy was optional at the age of 60 and compulsory at the age of 67. However, there was an exception that the compulsory age was 70 years, for the 'Cour de Cassation'. Political activity by a Magistrate was not permitted and the same was being debated from time to time. Magistrates might take part in scientific, artistic or literary works but they might not hold any other professional or salaried post. On permission they might take part in other activities provided the same did not detract from the dignity or independence of the post of Magistrate. A Magistrate could not be appointed in a district in which during the preceding five years he had practised as an avocat or Avove or Notaire. From time to time he must have been appointed to take part in the fact-finding Commissions.
THE PRESENT INDIAN SYSTEM

Besides the High Courts and the Courts constituted under any law, other than the Criminal Procedure Code 1973, there are, in every state the following classes of criminal courts. They are:-

(a) Court of session.

(b) Judicial Magistrates of the First Class and, Metropolitan areas
    Metropolitan Magistrates.

(c) Executive Magistrates.

JUDICIAL MAGISTRATES - POWERS, FUNCTIONS AND APPOINTMENT

There are Metropolitan Magistrates in Metropolitan areas and magistrates of First in other areas. The Metropolitan Magistrates are appointed by the High Court and the jurisdiction and powers of these courts extend throughout the said Metropolitan area. One among the Metropolitan Magistrate was appointed as Chief Metropolitan Magistrate. If necessary Additional Chief Metropolitan Magistrates are also appointed by the High Court.

The court of a Magistrate of first class may pass a sentence of imprisonment for a term not exceeding three years, or of fine not exceeding five thousand rupees, or of both. The court of Magistrate of the Second class may pass a sentence of imprisonment for a term not
exceeding one year, or of fine not exceeding one thousand rupees, or both. The Metropolitan Magistrate shall have the powers of a Magistrate of the First Class.

CHIEF JUDICIAL MAGISTRATES, ADDITIONAL CHIEF JUDICIAL MAGISTRATES AND SPECIAL JUDICIAL MAGISTRATES

In every district (Not being a metropolitan area), the High Court appoints a Judicial Magistrate of the first class to be the Chief Judicial Magistrate. He is subordinate to the sessions Judge; and every other judicial Magistrate is subject to the general control of the sessions Judge and subordinate to the Chief Judicial Magistrate. The CJM from time to time, makes rules or give special orders, consistent with the criminal procedure code, as to the distribution of business among the judicial Magistrates sub-ordinate to him.

Subject to the control of the High Court of Chennai, the Chief Judicial Magistrate from time to time defines the local limits of the areas within which the Magistrates appointed under section 11 or under section 13 of Cr P.C. might exercise all or any of the powers with which they might respectively be invested under the code. The court of a special Magistrate might hold its sitting at any place within its local area. Except as otherwise provided by such definition, the jurisdiction
and powers of every such Magistrate extends throughout the district. The court of a Chief Judicial Magistrate might pass any sentence authorised by law except a sentence of death or of imprisonment for life or imprisonment for a term exceeding seven years.

To-day, in Pondicherry, the post of Chief Judicial Magistrate is filled by an officer of the rank of Senior sub-ordinate Judge promoted from the Munsif-Magistrate cadre. So far, no direct recruitment to the post of Chief Judicial Magistrate has been made. There is no additional Chief Judicial Magistrate either at Pondicherry. The appointment of all the Judicial Magistrates of Pondicherry are made by the High Court of Madras.

The High Court of Chennai may, if requested, by the Central or State Government so to do, confer upon any person who holds or has held any post under the Government, all or any of the powers conferred or conferrable by or under this code on a judicial Magistrate of the first class or of the second class, in respect to particular areas or the particular classes of cases, in any local area, not being a metropolitan area. Pondicherry is not a metropolitan city. No such power shall be conferred on a person unless he possesses such qualification or experience in relation to legal affairs as the High Court may by rules,
specify. Such Magistrates are called Special Judicial Magistrates. They are appointed for such term, not exceeding one year at a time. At present there is no special magistrates at Pondicherry.

EXECUTIVE MAGISTRATES

The separation of judiciary from the executive is a constitutional requirement. In every district and in every Metropolitan area, the State Government appoints as many persons as it thinks fit to be executive Magistrates and appoints, one of them to be the District Magistrates.\(^{20}\) The State Government may also appoint any Executive Magistrate to be an Additional District Magistrate who shall have such of the powers of the District Magistrate as may be directed by the State Government. An Executive Magistrate is also posted for the sub-division and he is known as sub-Divisional Executive Magistrate. These executive Magistrates are appointed for performing Magisterial functions allotted to the Executive. The collector of Pondicherry is the ex-officio District Magistrate. A Deputy Collector is designated as Additional District Magistrate. Other Deputy Collectors, according to the need are posted as sub-divisional Executive Magistrate.
PUBLIC PROSECUTORS

At Pondicherry the Public Prosecutors are appointed by the Government for a period of 3 years. A person having minimum standing at the Bar, belonging to political party of the popular Government is usually appointed to the post of Public Prosecutor. But the Assistant Public Prosecutors are appointed by the Government on recommendation made by the UPSC. They are full time salaried officers as in the neighbouring state of Tamilnadu which is also controlled by the High Court of Madras. But, at present in Pondicherry the Director of public prosecutions have control over them.

CORRECTIONAL STAFF UNDER THE FRENCH SYSTEM

In Pondicherry during the French regime the Nayinar who was responsible for maintenance of law and order also held the prisoners under his custody. However, it was not known as to how long this arrangement continued. Prior to the beginning of the nineteenth century it was found that those responsible for the maintenance of prisons as well as the custody of prisoners were also responsible for maintenance of law and order. During 1827, the prison system had undergone a change and the convicts and the under-trial prisoners were confined separately. The system of extracting work from prisoners of Low Castes was abolished and the work was made
obligatory for all the prisoners. The Arrete of 1st March 1807 placed the penitentiary institutions in Pondicherry under two categories viz., Prison des Blances, and Prison Generale, each of which was placed under the control of a regisseur who looked after the administration of the prison placed under his care. The Prison des Blances was meant for the detention of Europeans, their descendants and 'Topas' sentenced to undergo solitary confinement as well as correctional or simple imprisonment. Besides, it was also meant to lodge undertrials among Military personnel and sailors who were as far as possible confined separately. That the Prison General was meant for all categories of native prisoners sentenced to solitary confinement or to correctional imprisonment. The Prison General was also meant for the individuals sentenced to work in the Atelier de Discipline. Those sentenced to hard labour were put separately. There was no separate prison for female prisoners who were confined either in the Prison des Blances or in the Prison Generale, as the case might be. However, the female prisoners were allowed to keep with them their children below three years in case they were remanded after confirmation of the confinement.

Maintenance of inventory of all belongings of the prisoners, their classification discipline and maintenance of accounts, etc., were with
the Regisseurs. The Regisseurs were appointed by the Governor on the recommendation of the Ordonnateur Directeur de l'Intérieur and the other staff was appointed by the Ordonnateur Director de l'Intérieur in consultation with the Regisseur. The ration money was paid to the Regisseur of prisons des Blancs who was responsible for the preparation food. Food was prepared under his supervision in a common kitchen by prisoners who were paid wages at the rate of eight rupees per day. Half of the food was served at 11 a.m. and the remaining half reserved for the evening meal. Pregnant women were eligible for additional ration and those admitted in the dispensary were allowed the diet prescribed by the doctor. The natives sentenced to undergo imprisonment for more than one year were entitled to a dhoti at the end of the twelfth month and the Europeans were given one Shirt, one part and a short jacket if they so desired.

In the prison des Blancs, the prisoners were provided with wooden or an iron cot, a mattress, a pillow and a blanket while in prison general only a mat and a pillow were supplied. It was compulsory for all convicts to work. On request under trials were provided with the work. The infirm and the aged among the prisoners were exempted from work. The prisoners were engaged in the manufacturing of ropes, caps, thatties, besides other handicrafts as determined by the
Administrators. The convicts were eligible for only one third of the wages earned by them to meet their own expenses or remit to their family. The remaining was credited to their savings account and handed over to them at the time of their release.

Prisoners were allowed to receive visitors only on Sundays between 10.00 a.m. and 4.00 p.m. and such visit could last for two hours at the maximum. For visiting ordinary prisoners it was necessary to obtain permission from the competent authority of the judiciary. For visiting the convict prior permission was to be obtained from the administrative authority. The prisoners undergoing rigorous imprisonment and solitary confinement and gallery-slaves were allowed to see only their nearest relatives and that too rarely upon an authorisation issued in consideration of their good conduct and efficiency in work. Medical facilities were provided by the Government. There was a dispensary in the prison under the overall supervision of the Regisseur. On the recommendation of the Regisseur, the prisoners of good conduct were allowed to perform the duties of a nursing orderly whenever the situation warranted. All prisoners were usually attended to in the dispensary itself, but were admitted to hospital on the recommendation of the Doctor whenever, afflicted by serious illness. A student of medicine attached to the prisoners, assisted by a Homme
de Peine, performed the duties of a nurse. All breaches of discipline were dealt with severely and the prisoners of good conduct were rewarded. Those who found guilty of indiscipline were subjected to various types of punishments such as cut in ration, solitary confinement, etc. The prisoners with good conduct were encouraged by officers of position of trust, remission of sentence, slackening of chains in case of convicts, permission to use tobacco and betel, etc. They were also permitted to wear a badge on the sleeves of their right arm as a token of good conduct.

In order to assist the government in the administration of the prisoners, a three member body called commission de Surveillance consisting of a representative each of the Ordonnateur Directeur de L’Interviur, the Procureur General and the Maire (Suppleant de la Justice de Paix) was constituted. Though the Commission had no power to arrive at any decision on prison administration, it inspected the prisons from time to time and maintained a close watch over prison hygiene, diet, discipline, maintenance of registers, distribution and execution of work, relationship between staff members and prisoners, etc. It forwarded its recommendations to the Administration proposing modifications which it considered desirable for the welfare of the prisoners. Though the Commission was required to meet only once in
a month, its member had to visit the institution at least once in a week. Apart from the members of the commission, an Inspector of Police also visited the prisons everyday. In the Register Specially kept in the office the president of the Commission, its members or the Inspector of Police recorded their observations if any. Every year in the month of December, the commission had to submit a report to the Administrator.

RE-ORGANISATION OF PRISONS DURING THE FRENCH RULE

In 1876, an Inspection team visited Pondicherry from France and submitted a report to the Ministere de la Marine et des Colonies. On the basis of the report, the Ministry advised the governor to take appropriate measures to re-organise the prisons in all the establishments. In order to subject the prisoners to better discipline and enforce the penal provisions more effectively, the Arrete of 4th February 1889 sought to strengthen the staff of prison Generale as per the advice of the Commission de Surveillance des Prisons. Another order of the same day required the medical officer to visit the prison every morning and to stay there from 8.00 a.m. to 9.00 a.m. and to record daily his observations on sanitary conditions in the prison and the condition of sick prisoners in the dispensary. A five member committee was constituted in March 1899, to work out a Regiment of work, for prisoners. It studied the nature of work to be assigned to
prisoners both inside and outside the prison. The Arrets of 1st March 1867 which continued to govern the penitentiary institutions in Pondicherry were no more found to be in harmony with legislation in France which had undergone many important changes. This put the administration in an embarrassing situation. Apart from this, the commission de Surveillance des Prisons had also stressed the need to revise the rules and regulations so as to bring them on line with the new concepts of prison administration.

As a consequence of this situation the Arrete of 30th May 1899 placed the prisons under the administrative control of the Secretarire General. In the other establishments, the respective Administrators had direct control over the prisons. The commission de Surveillance was replaced by the commission Superieure des Prisons and it was to inspect the prison and to offer its views on their functioning. It has to submit a report to the Governor once in six months about the general condition of the Prisons. In each of the outlying establishments also, a Commission de Surveillance was set up under the presidency of the respective administrator.

The responsibility for the enforcement of all decrets, arretes and relements governing prisons rested with the Regisseur who was
assisted by a Gardien-Chef. He was responsible especially for the maintenance of discipline among prisoners and for carrying on the internal administration of the prison. According to the Arrete, the prison Generale came to have three wings known as Maison d'Arrete, Maison de Justice and Maison de Correction, for the detention of all kinds of prisoners and under trials. It also provided for separate enclosure for men and women in all the three wings. The prisoners sentenced to death and banishment were to work compulsorily. But it was optional for all the other prisoners. They had to work for ten hours a day. The order also further specified the punishments for dis-obedience misbehaviour towards warders, drunkenness, unwillingness to work, etc. However, the prisoners were provided with better clothing's. Natives sentenced with imprisonment for more than an year were entitled to two stuff jackets, two sarees in the case of female prisoners. Europeans were supplied with two stuff-jackets, two short trousers, a pair of shoes and a straw hat in the case of male prisoners and two gowns, two Chemises, a pair of stockings, a pair of shoes and a straw hat in the case of female prisoners. The dispensary attached to the prison was provided with a consultation-cum-operation chamber, a pharmacy, a kitchen and wards for the sick. It was placed under the control of a doctor nominated by the Governor.
REORGANISATION BEFORE MERGER

Before merger, for the last time the penitentiary establishments were re-organised by the arrete of 20th February 1942. That order placed the prisons under the authority of the Governor (Chief of the Colony). As the representative of the Governor the Chef du Bureau des Finances, was responsible for the overall control of the prisoners. The Chef du Bureau Militaire had to inspect the prisons to ensure that discipline was maintained and that the supervisory staff were properly carrying out their duties. The order further re-constituted the Commission Superieure des Prisons in Pondicherry and the Commission de Surveillance in the other outlying regions.

YOUNG OFFENDERS IN THE PRISON

There was no prison exclusively meant for young offenders. They were put in the general prison. This made them to get contaminated with hardened criminals. In 1866, the administration decided to keep the young offenders away from the adult prisoners. The order of 26th October 1866 declared the present Botanical Garden as an Agricultural settlement where young prisoners from Pondicherry could be placed under strict discipline and put to agricultural works. They were provided with clothing, wages, medical facilities, etc. The doctor attached to the prison General attended these young prisoners.
This penitentiary establishment which was originally under the control of the Aide Botaniste was transferred in 1906 to the case of the Gardien Chef who administered it as per the orders of the Regisseur of Prison Generale. But, after 1942, the young offenders were housed in General Prison only. As the Children’s Act 1961 was extended to Pondicherry, in the year 1968, a special school and observation Home were established at Ariyankuppam and the young offenders accused of isolates of children Act were detained in the observation Home. The position remains the same though the Juvenile Justice Act 1986 came to be made applicable to in Pondicherry.

ADMINISTRATION OF PRISONS UNDER THE PRESENT SYSTEM

The order of 20th February 1942 continued to govern the prison administration even after merger. The prisons were placed under the direct control of the Inspectorate General of Police under the overall administrative control of the Home Department. The Superintendents of Police in Pondicherry and Karaikal exercised the functions of the Controller of Prisons in addition to their normal duties in their respective regions.

After the introduction of the Indian Penal Code and the Criminal Procedure Code, in October 1963, the control of the Inspectorate
General Code, of Police on the Penitentiary establishment got discontinued. The controller of Weights and Measures was declared by the Government as the controller of Prison for the Pondicherry region. The Administrators of Karaikal and Mahe were declared as controllers of Prison for Karaikal and Mahe regions. The Chief Medical Officer in Yanam was vested with the duty of controlling the prison at Yanam.

Consequent upon the appointment of Superintendent of jails in January 1967, the duties of Controller of Prison for Pondicherry region were transferred to him. During May 1986 (a) The Prisons Act, 1894, (b) The Prisoner’s 1900 (c) The Identification of Prisoners Act, 1920, (d) The Transfer of the Prisoners Act, 1950 and (e) The Prisoners (Attendance in Courts) Act, 1955, were extended to the Territory of Pondicherry.

The various provisions of the said Central Acts conferred powers on the Administration and in exercise of the same he framed two sets of rules viz., the Pondicherry Prison Rules 1969 and the Pondicherry Sub-Jails Rules 1969. With the extension of the Central enactment in 1968, and the enforcement of the Pondicherry Prison Rules 1969, the Prison Generale situated in the centre of the Pondicherry town was designated as Central Prison and the Prison in Karaikal was classified as a ‘Special Sub-Jail and those at Yanam and Mahe as sub-jails. The
rules were brought into force by setting the administration of penal institutions in the Territory on the pattern followed in Tamilnadu.

Under the new set up the Chief Superintendent of Jails is responsible for the proper enforcement of all rules and statutory mandates in the territory. He is also responsible for the execution of all sentences imposed on the prisoners under his charge and he is assisted by one Deputy Superintendent and two Assistant Superintendents.

Arrangements were made with the Government of Tamilnadu in 1969 and with those of Kerala and Andra Pradesh in 1968 for the transfer of long-term prisoners from the sub-jails in Karaikal, Mahe and Yanam, to the jails in Tamilnadu, Kerala and Andra Pradesh respectively as the sub-jails were meant for logging short-term prisoners only.

Similarly arrangements were also made in 1969 for the transfer of habitual and long-term prisoners sentenced to more than five years from Pondicherry to the jails in Tamilnadu since the central prison in Pondicherry did not have facilities to lodge such prisoners at that time. However the maintenance charges of those prisoners were borne by
the Pondicherry administration. But, the prisoners were treated according to the rules and regulations in force in the state to which the prisoners were transferred.

The Deputy Superintendent of Jails in Karaikal is in charge of the Karaikal Sub-jail. He, at present performs the duties of a jailer with the assistance of Head wardens and warders. The Sub-jails in Mahe and Yanam are under the control of a Sub-Assistant Superintendent each who functions as a jailer under the control of the Chief Medical Officer of the respective regions.

Consequent upon the extension of Indian laws from 1st October 1963, there is a sharp decline in the total daily average of intake of prisoners in the jails. This decline is in respect of undertrial Prisoners. It is learnt that this was the outcome of the liberal granting of bail after extension of Indian Laws. There were several restrictions in granting bail during the French period.

THE BOARD OF VISITORS

The Board of Visitors is established to ensure the proper application of rules and regulations governing the management of prisons. It consists of Official and non-official members and it has a
duty to keep close watch on all aspects of jail management, including training, diet, health, rehabilitation and recreation of prisoners. The Board headed by the District Magistrate consists of, besides officials, a member of the Legislative Assembly, a Member of Parliament, a Medical Practitioner, a Lawyer, and two female social workers. The members of the Board are not only free to visit the jail on any working day as per the roaster prepared by the Chairman, but also entitled to record their findings for necessary remedial action by jail authorities. Complaints and petitions, if any, from the prisoners are received by the Board. It is also to inspect food and ensure quality. The Board is also to verify the punishment register.

Prisoners having good behaviour are entitled for ordinary remission apart from special as well as government remissions. They are also released on emergency or ordinary parole, to enable them to maintain contacts with their family on important occasions. These are all done by the Advisory Board specially constituted under Chairmanship of the District Magistrate. The Advisory Board is required to meet at least once in six months and is empowered to review the cases of prisoners and recommend their release either conditionally or unconditionally or on compassionate grounds and to extend to them necessary help at the time of their release.
RE-SOCIALISATION

Every prisoner is free to follow the tenets of his persuasion. Catholic prisoners are allowed to participate in holy mass offered by a visiting priest. Moral discourses are arranged from time to time for the benefit of prisoners. The sisters of St. Joseph de Cluny visit the female prisoners. As a step towards their rehabilitation prisoners are given training in some trade or handicraft. However the number of prisoners fit to work is not considered adequate enough to set up any industrial unit in the central prison.

The Central Prison in Pondicherry is provided with a library. For recreation the prisoners are provided with newspapers and magazines and radio. Apart from this film shows are also arranged.

After-care programmes are also available to the released prisoners so as to make them to adjust with the society. This is done by the probation officers and also by some welfare organisations. The Probation officers appointed under the probation of offenders Act 1958 report on after-care and follow up actions with regard to the released prisoners.

Thus the erstwhile system of Administration of Criminal Justice with its various organs like police, prosecutors and prison authorities had undergone some changes to suit the requirements of changed law.