Chapter Eight

BOMBAY AND ITS JUDICIAL ADMINISTRATION
BOMBAY AND ITS JUDICIAL ADMINISTRATION

The Charter of 1661 granted a certain vague legislative and judicial authority to English East India Company to make laws and ordinances for the government of the Company. The Company was empowered to hold general Courts to resolve any matters, causes, affairs or business of the said trade in any place or places. The Charter also gave Governors and the Council for each factory and many important privileges. They were given power to judge all persons under them, in all causes, whether civil or criminal according to the laws of the subcontinent, and to execute judgments accordingly.¹ The factory Chief and Council of factories were also empowered to sentence the offender's.² The Charter also laid guidelines about choosing the new Governor annually between the 10th and last day of April. There were to be 24 members in Court of Committees. Provisions were laid down for removing the Governor or Committees.³

At the time of cession in Bombay there was ordinary Judge (Ovidor) at Thana, an attorney, a Mayor, and a magistrate and there were probably officials from Bassein, where there was a Supreme Court of Judicature (Relacao).⁴ Prior to the grant of Bombay to the Company it seems that Portuguese rule had treated the island as mere dependency and all cases of laws were carried to Thana or to Higher Court (Relacao) at Bassein under the Portuguese.⁵

When Humphrey Cooke took possession of Bombay on 8th February 1665, on behalf of the English King, the Portuguese law of justice was in vague on the island. Cooke therefore could not replace it at once. This becomes more evident from the following letter of Cooke dated 25th December 1665 he writes: "The Portugalls on the main and the neighbouring places in these parts, have some lands on this island, and many inhabitants here, have lands ther, so that I have been forced (to excuse a confusion) to settle a civill law among them in the island, the which hath hugely pleased boath

¹ Shaw, John, Charters Relating to the English East India Company 1600-1741, Madras, 1887, 34-37.
² Ibid, 45.
³ Ibid., 34-37.
⁴ Malabari, Bombay in the Making, 24.
⁵ Khan, op.cit., 467.
partys; among ourselves is marshall laws, and for religion liberty of conscience is
given to all.” 6

This clearly meant that to avoid conflict in the laws, he had allowed the Portuguese
laws to continue to be applied to the Portuguese and other non-English inhabitants of
the island, since he believed that Portuguese laws and customs were firmly
established on the island.

It is also interesting to read what Cooke himself in his report dated 3rd March 1665
states “in this island was neither government nor justice, but all cases of law was
carried to Tannay and Bassein; now its in his Majesty’s jurisdiction there must be a
settlement of justice. According to such laws as his Majesty think fit for present I’ve
nominated for the whole island a tannadar.” 7

This clearly shows that under the Portuguese, the thanedar had his office at Bombay.
He was a military officer exercising police and military powers. Bombay Island was
only a Portuguese outpost and there was no judicial Court in the island. All legal
cases and accused persons were taken to the judge (ovidor) at Thana or to the Higher
Court called Relacao at Bassein. He appointed one justice of peace. He and the
Bailiff 8 enquired into all cases and submitted reports to Cook who gave his final
decision in the matter. 9 This was certainly an unsatisfactory arrangement and more
over he was accused of taking bribery 10 in deciding cases is probably well founded.

Sir Gervase Lucas in November 1666 replaced Cooke as Governor of Bombay and
being a good linguist, he tried the cases personally and administered under Portuguese
law as a judge. He also made sure not to give power to any to punish but by the orders
of the Governor of the island or by the Justices of peace as appointed by the
Governor. 11 He also asked the King to send a advocate, well versed in English and

---

6 Ibid., 476.
7 EFI, 1665-67, 45-46.
8 He is an officer of the Court who is employed to execute writs and processes and make arrests etc.
10 Gary said that Cooke has taken bribes from several people while passing the sentence and he also
specified one case where bribe was Rs. 300. EFI, 1665-67,74.
11 EFI, 1665-67, 291.

274
Roman law. On his death Henry Gary, his successor, continued the same practice, asking, consistently for the dispatch to Bombay of a Advocate i.e. an officer skilled in civil laws (as opposed to common law), such a request was repeated by Aungier in his letter of March 30, 1670, but this request was refused by the Company. The Commissioner's appointed to receive this island from the Crown representatives reported to the Council at Surat that a judge advocate was necessary "for deciding the causes of meum and tuum among these litigious people who are more particular than the French themselves, but are over ruled by the civil law for the declaring of which such a person is indispensably necessary." Apart from this the Martial laws enforced by Cooke continued under his successor, and it seems to have been applied not only to Englishmen and military offenders but also on occasions on natives accused of capital crimes, for it is recorded that a man accused of the murder of his wife was tried by Court martial in 1668.

JUDICIAL ADMINISTRATION (1668-85)

In 1668 Bombay was transferred to the East India Company by the Charter act of 1668. The Charter of 1668 empowered the Company to establish or revoke any laws required for the good governance of Bombay. The general power was not affected by this Charter Act of 1668. The new Charter gave power to the Company to make a general Court or through the Court of Committees, orders, ordinances, and constitutions for the good government of the port and island and its inhabitants, and such measures were to be engrossed under the common seal before publication. The Company was authorised to set up Court of civil and criminal justice and also to make laws to be administered in those Courts. The Company was further authorised to appoint judges and other officers to judge and determine all actions, suits and causes what so ever, and to award punishments, according to such laws, orders, ordinances, and constitutions as were made by the Company.

12 EFI, 1668-69, 55.
13 Keith, art. Cit., 60.
14 G.B.C.I, I, 204. letter of Commissioners to Surat, October 30th 1668.
15 EFI, 1668-69, 51.
16 The word committee is used here in the sense of the committeemen or individuals to whom the trust was committed, not to the body of committeemen, as in later times.
17 Ibid, 52-53.
These powers were supplemented by the authority given to the Governor of the island to exercise the powers, “to use and exercise all these powers and authorities in cases of rebellion, mutiny, sedition, of refusing to serve in wars, flying to the enemy, forsaken of colours or ensigns, or other offences against law, customs or discipline military, in and as large and ample manner to all intents and purposes whatsoever as any Captain General of our army by virtue of his office has used and accustomed and may or might lawfully do.”

On 30th September 1668 Mr. Thomas Papillon, a member of the Court of committees, and Mr. Moses, the Solicitor of the Company, were instructed to draft rules for the civil government and equal distribution of justice upon the island. After revision of their draft by the Court of Committees and Solicitor General, the laws were settled and were sent out with the Company’s dispatch of March 1669. These laws were brought to Bombay by Aungier during his first visit to the place in January 1670. However already in November 1669 the Commissioner’s had decided to sit every Tuesday and Friday to consider Judicial Matters.

Aungier arrived in Bombay in early January 1670 had to deal with the case of Deputy Governor, Captain Young who was charged with the murder of Mrs. Adams. Aungier and his Council decided after careful examination of the case, to send home Young and Adams as well as the other two disputants Toldervy and Samuel Burgess, by ships.

On February 2, 1670, Aungier convened the meeting at Bombay castle and issued certain orders for the administration of Justice. First of all he made a list of all Englishmen, who were on the island at that time and ascertain their qualifications.

---

18 Ibid, 54.
19 Sanisbury, Court minutes, 1668-70, 100.
20 E.F.I, 1668-69, 237.
21 Ibid., 247.
22 He was appointed as factor by the Company in 1668 and appears to have come to Bombay with Oxinden in January 1669. Ibid., 15, 216.
23 He was the Captain of the two garrison Companies. He was in Bombay during Cook’s Governorship, being one of the signatories of the charges against him and had presumably come out with Abraham Shipman. Ibid., 232.
24 Samuel Burgress came as Secretary to Sir Lucas and on the transfer of Bombay to the Company was given employment in their service as the Secretary of Bombay. Ibid., 63.
25 Fawcett, First Century of British Justice in India, 32-33.
Those who were found worthy of such trust were created justices and were asked to dispense justice to the inhabitants on the specified days and particular hours. For this purpose he had the whole island divided into two parts, the first consisting of Bombay, Mazagaon and Girgaon, the other consisting of Mahim, Parel, Sion, Worli and Puckreys (Pakhadis or hamlets).  

The Court of five justices (all English) was to sit at least once a week. The respective customs officers of Bombay and Mahim were to preside and their assistants were the local inhabitants. Their jurisdiction was limited to civil suits for sums not exceeding Xs. 200 and to thefts not exceeding the value of 5 Xs. The provision was also made for a quorum, the requisite staff, and registers for their proceedings. In addition the Superior Court composed of the Deputy Governor in Council, who took cognizance of all civil and criminal cases with the title of judge of the Court of Judicature.

The Supreme Court also served as a Court of Appeal and has original jurisdiction over suits affecting the Company or the government of the island on the matters exceeding in value of Xs. 200. In these Courts an important direction was that all trials were to be tried by the jury as provided by the Company laws. These orders were a departure from those laws so far as the latter provided for the single Court of judicature under a judge and for trial by jury in that Court. But it was explained that this was because of want of men who were able to understand laws. The Superior Court was however mainly entrusted with the administration of Criminal Justices.

---

26 Campbell, III, 2.
27 Malabari, Making of Bombay, 147.
28 This sum was a little more than Rs. 150 rupees were then worth 13 Xs.
29 E.F.I, 1670-77, 2-3; Campbell, III, 2-3. The Surat council writing to court of Directors on 30th March 1670, Speak flaws being published for civil and military governments and “we gave the people a task of your justice by the trial of Several Cases to their great satisfaction”. They speak also of the appointment of two courts of Judicature, the lower Consisting of the some of the country justices with whom one of your customers is always to preside and taking cognizance of all causes under Xs 200, with an appeal to an upper court. These courts sat on fixed days once a week and often in emergency. G.B.C.I, I, fn.,205-206
30 The Court of Appeal was probably formed as a sort of check on the vagaries and illegalities of the “Customers”.
31 E.F.I, 1670-77, 2-3. A Bombay Consultation dated January 31, 1670 decided to publish a code of laws, however no trace of this law has been found. But it is worth noting that these laws were ordered to be translated in Portuguese and Canerese. The preference given to Canerese over the other vernaculars is explained by Mr. Edwards by the fact that the early population of these islands was to a large extent of Southern and Dravidian origin, Edwards, Rise of Bombay, 2.
The inferior Courts appear to have been separated into two benches, one of which met in the custom house of Bombay (near the present town barracks) every Friday at 8 A.M. and other met in the Mahim Custom house every Wednesday at the same hour. Each bench was presided over by the Custom officers of the Company, with five native justices as assessors. The three forming the quorum, they were empowered to hear Suits and determined actions for sums not exceeding the value of Xs 5 (Rs3 ½). However in point of legal training there was little to choose between the Superior and inferior Courts.

In addition to this, Prabhu Clerks were appointed along with the other officers to assist in working of the Court. He is appointed by Portuguese resident Simon Serron. Simon Serron well versed in civil and imperial laws, and by his experience and practice in laws and customs of the Portuguese was eminently qualified to render the Company competent service in discovering their just rights and privileges. The English found him of great help in the settlement of land disputes between themselves and Portuguese estates holders in Bombay. Aungier left Bombay for Surat in February 1670 after appointing Mr. Mathew Gary, Deputy Governor, with Council of four factors who was succeeded by Mr. Gifford on a salary of £ 120 a year.

In these Courts small fees were levied, a code of laws for their guidance was published in Portuguese and Canerese. During this time all proceedings of lower Courts were conducted in the Portuguese language. Aungier introduced English as an official Court language. This system was continued till 1685, when Director’s ordered English misdemeanants to be tried in India. It was further decided that all Englishmen accused of grave offences should be deported to England for trial and that the disputes between Englishmen and Portuguese should be decided by a jury, half English and half Portuguese. Among the other appointments contemplated by

32 Campbell, III, 2.
33 Malabari, Making of Bombay, 148.
34 Fawcett, First Century of British Justice. 36.
35 E.F.I, 1670-77, 4.
36 G.B.C.I, I, 60-61; Directors to Surat Council, August 11, 1670.
37 Edwards, Rise of Bombay, 3.
38 F.H.S, I, 55.
39 Campbell, III, 9.
40 Ibid., 2.
to give him... They however undertook to send... Some persons who had received education in the law as civil servants without making the practice of the law their only object, and if they deserved well might be appealed to as assistants to the Courts of Justice.”

**JUDGES AND THEIR WORKING (1672-85)**

Most of the justices of Bombay and Mahim had been appointed in March 1670. By 1672, the need of a judge had been so pressing that Aungier appointed first full time judge ‘George Wilcox’ who drew up the proposal for the working of Court and started it on lines of impartial justice in accordance with the desire of the Company. Aungier also gave orders for the final suppression of Portuguese customs by English law thus English became the judicial language. The Directors sent out the statute Book and other law books in December 1672, with the help of these Wilcox framed a rough code of civil Procedure.

The proceedings of the Court, as stated above normally, took the lines as proposed by Wilcox. The proposals given by Wilcox were in three papers. The first paper dealt with the civil side of the Court and the provisions were simple. It contained the draft

---

41 F.H.S, I, 55, The proposal for the other three officials was made in February 1671. While for a judge was made in 1670 (Fawcett, First Century of English Law, 33-36). In 1673 there was an attorney at law who looked after the company’s revenue and lands and defended the actions and right of government before the law. He also acted as preventive officer and as a storekeeper to the garrison.

42 Bruce Annals, II, 279.

43 E.F.I, 1670-77, 21.

44 F.H.S. I., 64. George Wilcox enjoyed the confidence of Aungier and was a signatory to Aungier’s convention. The judge, salary was fixed at £ 120 a year, was kept fully employed in addition to civil and criminal work, he was in charge of the register of probate of wills and “inventories of dead men’s estates”, F.H.S, I, 73. Aided by two justices, he held his Court in a room near the fort, two days a week being allotted to civil work, and one day a month for the hearing of criminal cases, Malabari, Making of Bombay, 149.

45 F.H.S, I, 64
form of Summons to a defendant in an action. The second paper gave reasons for having a Court of Probate and Administration and required an executor or Administrator to file inventories and accounts, and also gives details of staff in the office. The third paper referred to the Sessions Court and the divisions of Bombay into hundreds. This paper also contains other proposals such as:

- Separate prison, one for the debt and other for the felons.
- A constable to be elected annually by the major voices of the inhabitants of each hundreds.
- Churchwardens to be annually chosen at the Sessions, and their duties in presenting ‘defaulters’ to the Sessions prescribed.
- A Register of all mortgages, sales, and other alienation to be kept.
- A Coroner to be made to enquire after all murders and casual deaths and to return them into Sessions.

According to Wilcox report’s all these proposals were approved by the Council but in fact a modification was made. Bombay was divided into four ‘hundreds’ namely Bombay, Mahim, Mazagaon and Sion instead of the three proposed by Wilcox. These divisions are also corroborated by Burnell in 1710. According to him the government of the island resembles to that of province that is divided into counties, hundreds etc. however he says that the chief of the divisions were seven according to the number of the forts thereon.

According to Burnell these divisions are divided into packereys. These packereys are formed for the better regulating of estates, militia. In the packereys lie the towns, hamlets or villages, some having one, some two and again some none. These seven

---

46 Khan, op.cit., 490-91.
48 Ibid., 493.
49 They did this for such offences as non-attendance at church, ‘drunkenness, swearing, uncleanness, and other debaucheries. See Khan, 493.
50 This was then a familiar term in England, signifying a territorial division of county.
51 Khan, 493. According to Wilcox Bombay was to be divided into three hundreds, the hundreds of Bombay, Mahim, and Mazagaon, each hundred to have a justice of peace and constable. Khan, op.cit., 490.
52 Burnell, op.cit., 6.
53 Literally a wing of village.
jurisdictions of the islands were Bombay, Dongri, Mazagaon, Sewri, Sion, Mahim and Worli. 54

The judge salary was set as Rs. 2000 annually and was to be paid from the fines otherwise from the treasury. This amount seems to have satisfied Wilcox as the island was in general poor and the pay of all the officers such as clerks, interpreters of Portuguese or Cannary, Messengers were paid out of fines. 55 But it was only in 1675, that the salary of judge was fixed at £ 120 a year. He was allowed a horse or palanquin, sunshade boy and a gown yearly at Company’s charge. The judge is required to keep an exact account of all monies and fines received. From these receipts he is to discharge what is laid down for Session’s dinners, officer’s fee and public expenses paying the remainder into Company’s cash. 56

The Court of judicature continued to be presided by Wilcox, who sent the Company a report about its working during the year 1673. According to him their neighbours were amazed to see that their justice outruns their expectations. The reason for it was their Courts working were neither dilatory nor partial. He further said that the people satisfaction to their proceedings was very great as the cost of justice is quite low compared to other places. This was due to Aungier’s effort of lowering the fee of Courts. 57

Wilcox died in August 1674. The vacant judgeship was conferred on Adams (August 1674 to end of July 1675), who had Court experience as justice of peace and Attorney General from 1672. A commission to assist him was also given to Niccolls. 58 But the question of appointing a full time judge was again discussed by Court of Directors, who finally decided in 1675 that the appointment was necessary. Accordingly Mr. Thomas Nicolls was chosen to fill the post on a salary of £ 120 a year, payable quarterly, together with allowances of “a house or palanquin” a sumbrera (umbrella boy, a symbol of dignity). To guide the judges about their duties, the Surat letter of February 1676 contains the following instructions to the judges that they should

54 Ibid, 6-7.
55 Khan, op.cit., 490.
56 F.H.S, I, 73.
57 E.F.I, 1670-77, 80.
58 Ibid., 103-104.
discourage and prevent the vexatious suits and contrivances laid by the common barristers as disturb the peace of the people. The Surat Council further advised the judge's that they expect them to maintain gravity, integrity and authority of their office and did not want any disrepute on the Court of Bombay by the lightness and partiality of barristers. 59

Nicolls's tenure of office was not so long, he was suspended on the 20th August, 1677, for speaking disrespectfully to a jury. 60 His tenure was remarkable for two trials of theft, which evoked a remonstrance from the Court of Directors. In the first case two Bombay inhabitants were found guilty and executed, and in the second a European thief was punished with slavery. 61 The Court of Directors on receiving a report of these circumstances, laid down that theft was not to be punished with death and that Europeans were not to be sentenced to slavery. 62

The post of the judge was kept vacant for the rest of the year. Day and Ward with Captain Keigwin were authorized to do the work as joint justices of peace. Petit and his Council recommended for joint commission of peace instead of the appointment of a judge, on the ground that latter designation unduly inflated the occupants to think that they are superior to others. 63 The Authorities had to revise their opinion regarding the necessity for a judge, for only a month after they find them advocating the appointment of the officer. For instance: In December 1677, Bombay government reported that the justice of peace did not receive any salary. There is no office of registrar on the island and neither it could be created as it's the judge who keeps the registrar and if the post is crated will tantamount to giving the wages to two person for carrying out the same duties. 64

59 F.H.S, I, 81. Barristers may be clerical error in the original for barraters. “Common barraters” is an old criminal offence at common law.
60 Ibid, 135-136; “Twelve men who formed a jury at justices’ Hall brought in a verdict according to equity and good conscience, and were nevertheless publicly checked and rated by the judge who told them that they were men of large consciences. They asked to be exempted in future from the like duties except they can be protected in a free discharge of their consciences” G.B.C.I.I, Fn.2, 208.
61 Malabari, Making of Bombay, 151
62 The first execution in Bombay took place on 21st October 1674. When Corporal lake was shot. Douglas James, a Series of Stray Papers, 74,
63 E.F.I, 1670-77, 174-75.
64 F.H.S, I, 142. The Charter of 1683 authorised the Company to set up Courts consisting of lawyers and two merchants, in such places as they might appoint. It does not appear whether any action was taken under the Charter at Bombay. Campbell, III, 7.

282
In 1677 the Bombay government objected to the designation of the judge as the Council felt that the designation sounds too great for the place and lawyers who come to these places are young men with no or very little knowledge of their laws. The designation of judge fills them with such pride that they think no men superior to them. In this regard the Company ordered that only some of their factors are capable of officiating in place of Chief Justice.\footnote{Ibid., 140.}

Meanwhile, Nicolls was succeeded by Captain Henry Gary (August 1677 to 26 December 1683), who was granted the title of Chief Justice, but had his salary reduced by Surat Council to £ 90 a year.\footnote{In 1678 the title of judge was altered to that of Chief Justice now he was only the Chief of Justices and the superiority of judge position was weakened. Malabari, Making of Bombay, 452-53.} Moreover he was a man of great experience. Thomas Rolt, the President, recommended his case to the Company for confirmation.\footnote{E.F.I., 1678-84, 1-2.} This arrangement was probably consequent upon the complaint of Bombay Council that they found great difficulty in obtaining good men to work as judges.\footnote{F.H.S. I, 140.} In any case the appointment of Gary found little favour with the Court of Directors who remarked that “For as much as we are informed that the said Captain Gary is a papist, we do not think him a fit person for judge” and in the end, so far as contemporary record show, Captain Gary and Captain Keigwin were appointed joint justices of peace and sat together with Messrs. Ward and Day “to hear all causes and try criminals”.\footnote{Ibid., 136}

**WORKING OF COURT IN BOMBAY TILL 1685**

Aungier gave careful attention to every detail in the organization and proceedings of the Court. For the purpose of administration of Justice as already stated town and island of Bombay was divided into two parts or precincts, and in each of these five justices, are all Englishmen,\footnote{Natives were not appointed at that time Justices, probably because they were not considered fit for such a trust. But on the establishment of Mayor's court in 1726, we hear of what was termed 'Black Justices' so called in order perhaps to distinguish them from 'white Justices', Malabari, Making of Bombay, 147.} being qualified for the purpose, were appointed to administer justice three forming a quorum. They were all unpaid officials, for it had first been ascertained that they could spare time for the discharge of their honorary...
duties. It was not still till 1675 that a special salaried officer was appointed to preside over the Court of Judicature, and was given the title of the Judge, the ‘customers’ gave certain privileges of trade, probably to compensate them for the loss of their time and in recognition of their trouble in discharging their onerous duties. Unfortunately, no records to show the nature of the justice meted out by them. These customers were chiefly traders, sublimely ignorant of the rudimentary principles of law, nor were these presumably any barristers or solicitors to plead the cause of litigants then, for there was not much litigation in Bombay.

The commissions were drawn up for the Justice of peace and Judge. The oaths were administered to them and to the minor custodians of law. The form of oath that is administered was different from what is today. Hindus used to take oath by laying their hands on cow’s or calf’s head or holding cow’s tail. The Muslim and the Christian swore on the Koran and Bible respectfully. 71

Aungier’s reports of 15th December 1673 and 20th August 1674 shows military cases were still dealt separately, for instance Shaxton headed a mutiny of troops in 1674, he was impeached before “a select Court of Judicature” by Captain Langford whom Anderson described as a pompous Attorney he and other mutineers were tried by Martial law. 72 About these Trials, Fryer says “for those trial after a long endeavours to bring him to bring him to acknowledgement was erected a select Court of Judicature and an attorney ordered to impeach him, who with some borrowed rhetoric, endeavored to make him appear a second catrline, but he was cleared himself so handsomely of all objections that they had no more to answer than that it should be referred to the Company before whom he must personally appear and therefore was ordered home, but died during his voyage.” 73 It is interesting to note that there was an attorney not by profession, but through necessity.

71 G.B.C.I, I,207.
72 Ibid.
73 Fryer, I, op.cit., 121.
CIVIL AND CRIMINAL PROCEEDINGS (1668-85)

The civil proceedings generally followed the lines proposed by Wilcox and approved by Council, but an important addition was made in August 1672. This was the establishment of 'Court of Conscience' and was to be opened on Saturday and was to decide all cases up to Xs. 20. In this Court no fee was designed and Wilcox presided over this. The judge also decided petty quarrels other than monetary claims in this Court.\(^{74}\)

The civil cases chiefly consisted of disputes about the titles to land, nonpayment of debts, registrations of wills, probates, and the registration of mortgages, sale deeds etc. In all civil cases jury of twelve persons were empanelled and they were allowed a fee of Xs 3. In 1677 it was reduced to Xs 1\(\frac{1}{4}\), if the value of suit was less than Xs 190. The Jury normally consisted of Englishmen but in suits involving both English and Portuguese half a jury was English and half was Portuguese.\(^{75}\) This system continued till 1690. There were no barristers but Forrest mentions their presence\(^{76}\), Fawcett rightly points out that they have misread the word barrister' meaning vexatious litigants.\(^{77}\)

In 1677 the Court fee was reduced and rules were made about regular sittings of Courts, restrictions on arrest, attachments of lands and suits on foreign bonds.\(^{78}\) In 1680 the Bombay Council reported that the fees would only cover office expenses and that the judge's salary would have to be borne by the Company. The Council also reported that raising the fees was impracticable as it would drive people to arbitration and would decrease the Court's income. The question was accordingly referred to the Company, which turned down all such objections saying that the President and Council at Surat had liberty to make minor alteration in Bombay establishment, provided the total expenditure did not exceed the sum laid down by the Company.\(^{79}\)

---

\(^{74}\) Fawcett, *First Century of British Justice*, 60.

\(^{75}\) Campbell, III, 2.

\(^{76}\) F.H.S. I., 81.

\(^{77}\) Ibid., Barristers may be a clerical error in the original for the barrators, "Common barratory" is an old criminal offence at common law, G.B.C.I. I, Fn. 1 208.

\(^{78}\) E.F.I, 1670-77, 184.

For criminal proceedings Court used to meet on Thursday at 8 am. The Judge, the members of Governor’s Council, the clerks of the papers, clerks and jurymen were the main officials of the Court. The jurymen were allowed a fee of four and half rupees per case. The legal Court met as session Court once a month to try criminal cases. The entry of the Judge in the Court room was signaled by Bhandari, by blowing a Bongulee or trumpet. Bombay was grouped in four divisions –Bombay, Mahim, Mazagaon, Sion for each division a justice of peace, and a police constable made a preliminary examination of the case.

All persons accused of murder, theft, breach of peace or any other crime were proceeded against by an indictment prepared by a clerk of peace from the record of examination of witness before the justice of peace, police constables, Court criers, and interpreters assisted in the proceeding’s. Church wardens brought case of profaneness, breach of Sabbath, drunkenness, and licentiousness etc. other officers probably were the heads of castes or communities. In cases of culpable homicide the coroner also could commit persons to Sessions.

The Justice meted out at this period was distinctly medieval, as in deed it was also in England at this date. Theft which was apparently a common offence was punished with “burning in the hand”. Under the English laws a person may be guilty of murder, whether he causes or accelerates death. It was a common practice of Bombay Council to refer death sentences to Surat for orders whether they should be executed.

In March 1675 Aungier and his Council regularized the punishment of slavery for theft. They ordered “for the future, whatever persons that shall be condemned for slaves, shall have their heads immediately shaved, and the Company’s marke chopped

---

80 E.F.I, 1668-69, 249.
81 David, The city of dream, 34.
82 Campbell, I, 232.
83 Khan, op.cit., 493.
84 They were the officers belonging to the Sessions. They were allowed a small fee for every prisoner indicted.
85 Fawcett, First Century of English Rule, 69-70.
86 Khan, op.cit., 493.
87 F. H. S. I., 60.
88 Fawcett, First Century of English Rule , 74.
upon this shoulder, and be sent to St. Helena". For the first fault the offender had to be a slave for five years for the second fifteen years and for the third he had to serve the Company for ever at St. Helena however Englishmen were not to be made slaves. For the first fault the offender had to be a slave for five years for the second fifteen years and for the third he had to serve the Company for ever at St. Helena however Englishmen were not to be made slaves. Regarding the thieves the Surat Council in 1676 wrote that the thieves who were condemned in the Court will be kept in chains and at constant work at Bombay till they can be transported to St. Helena. If they were slaves and belong to any proprietor on the island, the Company shall allow Xs. 30 a head. 89

Female misdemeanant was sentenced "to be shaved and set on an ass" 91 and a soldier was sentenced to run the gauntlet for accidentally setting fire to a powder magazine. 92 It illustrates the barbarous justice in those days. 93

Murder was not a capital offence and a man of higher caste was seldom put to death except for the offences against the state. Brahman prisoners could not be executed but could be poisoned. 94 It was thought that hanging was too ignominious a death for a Muslim to suffer because, still most parts of sub continent was under Mughals. They could be lashed for the Mughal would not permit any professor of Islam to be hanged. In Madras there was no Martial law, so the lashes were used for the Muslims. The numbers of lashes administered were thirty nine also in the case of witchcraft, which was treated as punishable with death in accordance with English law. Fines and confiscation were very common besides being extremely lucrative; branding, mutilation and compulsory slavery in the docks or at the great breach were common forms of punishment. 95

---

89 Ibid., 71.  
90 F.H.S., I, 82.  
91 A similar offence was committed in Bombay in 1701 evident from the factory records that is "we are sorry to understand that there should be any person on this island so disrespectful to the government as to tear our proclamation, but since there is and that so high a misdemeanor may (if possible) be duly rewarded, we would have you give public notice that any person shall discover the said offender to you shall be liberally rewarded for his pains." Ibid., 87.  
92 G.B.C.I., I, 208-209.  
93 F.H.S. I., 167.  
94 Malabari, Making of Bombay, 284-285. Punishment for petty thefts was whipping inflicted at a cart's tail while the delinquent was led around the town; or it meant a public whipping or marker day. Felony was a capital crime, punished with hanging, female criminals were burnt.  
95 G.B.C.I., I, Fn., 209. As late as in 1779, one Robert Butter was sentenced by court-martial to receive 1,000 lashes and in 1744 a women was sentenced to be burnt for committing murder, Rodriguez, op.cit., 166.

287
Other felonies that were not provided by the Company laws were dealt in accordance of the laws of England. The Company raised objection whenever the Bombay government used English law to deal with a crime not covered by the Company’s laws. In 1672 and 1674 the Company sent a statute book and law books for use in the Courts of judicature.

The Court exercised its jurisdiction over many other aspects of Bombay life. It supervised drinking houses and regulated brothels, public morality and church attendance. At one time, there were 21 drinking house and bars. Finding that they had increased considerably in space of five years, the Court ordered that they should be reduced to the former numbers at once. Under Wilcox the Sessions Court also looked after the mending and making of public highways at public charge and regulation of prices.

OFFICE OF CORONER AND PANCHAYATS

In 1672 the office of Coroner, perhaps the oldest office in existence in Bombay was established. Coroner received the salary of Xs 12 a month, and was also allowed an inquest fee that varied from Re1 to Xs 3, depending upon the part of the island in which the inquest was held. There is a mention of Coroner Michael Mareene in 1683. In August the same year, order to prevent accidental deaths caused by Englishmen falling in to wells, was issued to fence them. But nothing seems to have been done as one Dr. Elliot died accidentally falling in to a well much after the orders were passed. In June, 1701, Christopher Boone was appointed as a Coroner. In 1702, Francis Forbes was appointed Coroner. There are many references of them after establishments of mayor court.

Aungier also modeled the several races inhabiting the town and island of Bombay in to orders and tribes appointing over each a Chief or Consul to manage their affairs.

---

96 See Wilcox first report in Khan, op.cit. 493.
99 Fawcett, *First Century of English Justice*, 155
100 Ibid.
101 F.H.S. I, 167; Malabari mistakenly believes that the post of Coroner was created in 1701, Malabari, *Making of Bombay*, 180.
In 1673 Aungier also took up the question of establishing panchayats for three principle communities namely Portuguese Christian, Hindus, and Muslims. He referred it to the Surat Council, pointing out the desirability of having such representatives. He also suggested that they should be empowered to decide small differences and quarrels that may happen among them. Aungier must have felt that the European “Customers” would not be within easy reach of the poor and seeing the heterogenous population of Bombay and to dispense the justice to all, he found a key to the problem in the system of Panchayats which must have been in vague in the country at that time and his proposals was a improvement upon it. The Surat Council agreed to it but the proposal was not carried out in that year. 104

Aungier however reported that he was not happy at the progress made in establishing panchayats. The Chamber of Indo-Portuguese Roman Catholics of Bombay was appointed in February 1675 and by September it was settled. The institution of Chamber for the Roman Catholics of Mahim according to him was obstructed by the disagreement among themselves and by the practices of padres. Probably for similar reasons the Muslims, the Hindus, and the Parsis had also not settled on their representatives. The failure may have been partly due to a preference for having disputes decided by the Court of Judicature rather than by the arbitration of panchayats. 105

In order to preserve the government he wrote: “In a constant regular method free from that confusion which a body composed of so many nations will be subject to,.............each nations may have a chief or consul of the same nations appointed over them by the Governor and Council whose duty and office must be to represent the grievances his office may also to arbitrate and determine all controversy’s which may arise between said nation, in case the party’s are so agreed, otherwise they are to be brought before the Judge of the Courts of Judicature......” 106

He thus made an order that tribe is responsible for the good behaviour of its members constituting it. These Panchayats, thereby helped in settling disputes among the caste

104 E.F.I, 1670-77, 80-81.
105 E.F.I, 1670-77, 130.
106 F. H.S, 1,64.
members, and looked after the estates of orphans belonging to their respective communities or castes. The Court of Judicature had the power to revise orders passed by a Panchayat. In short Aungier raised the fabric of self government by the inauguration of Panchayat system, and gave people the means of procuring justice for them.

THE COURT OF ADMIRALTY AND COURT OF JUDICATURE

In the last quarter of seventeenth century Bombay faced much trouble not only from interlopers, pirates but also from other coastal powers. These views are also confirmed by Bruce and Anderson. These events must have hastened the grant of Charter of 1683. Charles II granted the new Charter to the Company. This Charter contains two important clauses. It empowered the Company to make war with heathen nations in Asia and to maintain such military forces as it found necessary and to execute and use with in its plantations, forts and places “the law called the Martial law” against any foreign invasion or domestic insurrection or rebellion. At the same time the Company was authorised to establish a Court of Judicature consisting of “one person learned in civil law and two assistants.” The Court was empowered to hear all cases of forfeiture of ships or goods for trading contrary to the Charter, and also all maritime and mercantile cases concerning persons coming to or being with in the area of the Charter, and all cases of intrusion, injuries and wrongs done or crimes committed upon the high seas or in any of the territories, with in the limits of Charter, concerning any persons with in these limits. These cases were to be adjudged by the Court according to the rules of equity and good conscience and according to the laws and customs of merchants, by such procedure as the Court might direct. James II by his Charter of 1686 more explicitly allowed the exercise of martial law on the Company’s ship.

Thus, the said Charter authorised the establishment of admiral jurisdiction in India, with the object of enabling the Company to seize and condemn the ships of the interlopers view of the fact, that the Deputy Governor was unable to deal successfully

107 For details about the activities of interlopers see Bruce Annals, II, 510-540.
108 Anderson, The English in Western India.
109 John Shaw, op.cit., 71.
110 Ibid., 72.
111 Ibid., 80-83.
with mercantile and maritime cases, a special admiralty judge for the Bombay was appointed by the King. The first appointment was of Dr. St. John who arrived in Bombay in 1684, but, was prevented from landing by Captain Keigwin and his mutineers, so he left for Surat. His commission authorised him to hold Court at Bombay with two merchants (servants of the Company) as his assessors, to have cognizance of all admiralty cases with in the limits of the Company's territory and to draw a salary of £200 a year "allowances to be paid by Company."

Dr. St. John however was not satisfied with acting solely as judge of a maritime Court, and also claimed jurisdiction in purely civil matters. This arrangement was allowed during the continuance of Keigwin mutiny but after the mutiny had been suppressed and affairs at Bombay had become more peaceful, Sir John Child took the first opportunity to restrict Dr. St. John's jurisdiction and appointed John Vaux judge of civil and criminal Courts. This enraged Dr. St. John so greatly, that according to Bruce, he joined the interlopers and consequently suspended by the Court of Directors in 1685.

In July 1686, The Company confirmed the appointment of Mr. Vaux as a judge in the Court of Judicature and Sir John Wyborne, was appointed in place of Dr. St. John in Court of Admiralty, according to Company's order. Wyborne too complained about

---

112 Bruce, Annals, II, 496
113 Dr. St. John was a doctor of civil law and a member of Middle temple he had received the degree of Doctor of laws from the university of Leiden, Fawcett, First Century of British Justice, 121.
114 For Detail about the Keigwin mutiny see Ray and Strachey, Keigwin's Rebellion, Oxford, 1916.
115 Bruce Annals, II, 496-497
116 According to Hamilton Vaux was the book keeper to Sir Josiah Child in England and for his good services later appointed as a judge in Bombay. Hamilton, A New Account of East Indies, I, 235.
117 It was done on technical ground the charter of 1683 did not confer full civil jurisdiction on Dr. St. John. In brief charter of August 1683 made it clear that all other judicatures on the island were to remain in the same Condition and order as they had been before Keigwin’s rebellion, until the Company should receive a good report about Dr. St. John Child ultimately decided against Dr. St. John holding the Chief Justice ship of Bombay, because he had taken cognizance of accusations against John child himself and this appeared to John Child as insubordination. On the other hand Dr. St. John thought that he was exercising his independence as a judge, whether it is a commoner or President himself. Here, we see the contrast between John child’s attitude towards justice and that of Aungier who while inaugurating the Court of judicature had exhorted Wilcox not to show fear or favour in dispensing justice even when it concerned Aungier himself. G.B.C.I, I, Fn.1, 210. For more detail of dispute between Sir John Child and Dr. St. John, See Bruce Annals, II, 565-57.
118 Ibid, 210, St. John complained that he had received no salary as civil judge, and that Vaux knew no law court to Surat, May 6, 1685, child’s letter of 21 April 1685. hw is stated to have finally retired from Bombay in 1690. It is not at all certain that St. John was actually suspended by the Directors. But Fawcett believes he was Dismissed in March 1686, Fawcett, First Century of British Justice,125.
119 Sheppard, Bombay, 25
the highhandedness of John Child, which is evident from his complain that Sir. John Child, President at Surat and Governor of Bombay (1682-90) had ordered the retrial by the Court of Judicature of a person (Robert Clark) who had killed the gunner’s mate of the Phoneix in a quarrel. Wyborne protested this and urged that the garrison could not be governed on these lines. His tenure however, came to an end by June 1688 on receipt of the Company’s order of August 1687, giving John Child discretionary powers to remove him from the Court, John Child ace further ordered that same person should not be both judge advocate and Deputy Governor. Vaux was therefore appointed to hold the post of judge of Court of Admiralty also and two Courts were merged. Vaux ceased to be the judge from 4th February 1690 when he became the Deputy Governor of Bombay after Child’s death.

From 1690 to 1718 there was no regular Court in Bombay. In a letter of February 1702, Sir John Gayer not only mentioned that there had been no Court of Judicature in Bombay for last eleven years but also complained of want of authority to punish the frequent murders committed. Presumably this view was based on the fact that the Company’s laws of 1669 authorised a death sentence when passed by the Court of judicature after a trial by jury, or was due to the Charter of 1668 and the laws having passed into oblivion.

The only reference to the Court was Admiralty Court after the suspension of Dr. St. John is contained in a letter of August 27th, 1688, from the Court of Directors to Bombay in which they complain that “the fees of our Admiralty Court are grown to an exorbitances and the delays are extreme” and ordered the Bombay Council to revise the scale of fees and regulate the business of the Court. Meanwhile the course of civil and criminal justice ran far from smoothly. Sir John Child mismanagement of the Company’s affair, Keigwin’s mutiny, the rivalry of the Old and New and New East India Company’s and Sidi’s bombardment of Bombay, all contributed to upset the administration. After Vaux suspension from service no judge was appointed for

---

120 F. H. S. I,145-146.  
121 Ibid., 145-147.  
122 Bruce, Annals, II. , 585-586  
123 Fawcett, First Century of English Justice, 114-115  
124 Ibid, 115  
125 Fawcett, First century of British Justice in India, 166.  
126 G.B.C.I, I., 210
over the decade”, and legal work was performed in a very unsatisfactory manner by the Governor and Council.\textsuperscript{127}

**JUDICIAL ADMINISTRATION IN FIRST QUARTER OF EIGHTEENTH CENTURY**

At the opening of the eighteenth century there were few Europeans in Bombay due to which Court of Judicature could not be re-established.\textsuperscript{128} The judicial functions were exercised by a civilian styled Chief Justice and in important cases by President in Council, these two officials being the only justices of the peace for the whole island.\textsuperscript{129} During this period Nicholas Waite, the Bombay Governor reserved the jurisdiction arising in the fort for himself and styled himself as Chief Judge of Appeals from law or equity. Aislabie, the Deputy Governor of Bombay was accordingly entrusted as ‘Justice of peace in all parts of island out of the several fortifications’. There are few instances recorded of Waite and his Council of trying civil disputes and sentencing offenders. Most of the work was however done by Aislabie except in case of crimes resulting in death, which seem to have been mainly disposed by a Coroner’s Inquest. Thus Dominga, a ‘single women’, was found guilty of murdering her infant child by a jury composed of five Englishmen and seven Portuguese. The Coroner submitted the proceedings to the Governor and Council sentenced her for seven years transportation to St. Helena.\textsuperscript{130}

Aislabie succeeded Waite and continued Waite example of delegating practically all the judicial work to the member of Council.\textsuperscript{131} During the period of Charles Boone, the Bombay Governor the judicial authority which was vested mostly in single person for over ten years was restored to the Governor and Council.\textsuperscript{132} Charles Boone however wanted to have a Mayor’s Court on the lines of Madras, but Mayor Court only became a reality in 1726. In September 1716 Boone and his Council prepared a

\textsuperscript{127} Ibid. In 1696 the Bombay Government was expecting “a person learned in laws, qualified for a judge, where by us may erect a court of judicature”. Legal work at this date was performed by the Governor and Council. Ibid.

\textsuperscript{128} In 1704 there were few Europeans in Bombay and this becomes evident from his complain in 1706 that the number of Company’s covenanted servants was only six, including two members of the Council Fawcett, *First century of British Justice in India*, 167.

\textsuperscript{129} G.B.C.I. I, 211

\textsuperscript{130} Fawcett, *First century of British Justice in India*,167-68.

\textsuperscript{131} Ibid., 168.

\textsuperscript{132} Ibid.
draft proposing that the criminal justice was to be exercised by the whole Court comprising of representatives of four principal communities of Bombay viz. Hindu, Muslims, Portuguese Christian and Parsis.\textsuperscript{133} His draft was approved and proclamation was issued by which Court was established from March 1718 subject to the right to appeal to the Governor and Council, provided it was notified to the Chief Ministers within forty eight hours of the judgment and a fee of Rs. 50 was paid to the Secretary.\textsuperscript{134} The other provisions were\textsuperscript{135}:

\begin{itemize}
\item Any person imprisoned in case of the suit will not be persecuted within two days and after this confinement his discharge shall be granted without bail.
\item The Chugulass\textsuperscript{136} and the Vereadores of the several tribes of the inhabitants of island who were earlier empowered to decide castes and communal disputes were to be accounted to Inferior Court to which he aggrieved party could appeal. The latter also had general supervisory powers over their proceedings.
\item All persons were to aid any messenger or Sergeant of the Court in apprehending persons in case of difficulty.
\item As to the registration deeds of sale, conveyances, mortgages, and wills.
\end{itemize}

The Court of Judicature was thus restarted on the 25\textsuperscript{th} March 1718 under the Laurence Parker, the Deputy Governor (also Chief justice) drew an addition to his pay, which the Council drew an addition to his pay, which the Council at £ 100 a year. During this period Parker, Strutt and Clapham formed the bench of the Court. They were used to sit on Tuesdays and Fridays in every week to receive Petitions to determine causes and inflict punishments. No appeal of less than fifty rupees was to be taken to the President and Council. The other English justices were John Courtney, Bernard Wyche and Thomas Wilshire. Parker continued to be Chief justice until his suspension by the Council in 1720 on the charges of improper conduct that were charged against him by Charles Boone. These charges were mainly, concerned with the performances of his duties as a member of Council and few related to his judicial

\textsuperscript{133} Malabari , \textit{Bombay in the Making}, 494.
\textsuperscript{134} Fawcett, \textit{First century of British Justice in India},170.
\textsuperscript{135} Ibid., 173-74.
\textsuperscript{136} This represents the plural of the Marathi word \textit{chowgula} , which ordinarily designates an assistant to the Patil or village headman.
work. These charges were proved to be true at his trial by the Council.\textsuperscript{137} John Braddyll succeeded Parker as Deputy Governor and was appointed as Chief Justice of Bombay. Soon he came in conflict with Charles Boone over the issue of a trial of a naval officer Lieutenant Josua Wise, who was in jail for the charge of incitement of mutiny during the expedition against the Angria.\textsuperscript{138}

During this period the Court comprised of five English justices mainly the members of Governor’s Council. An important addition to the non official element of the Court was its inclusion of four Indians, referred as Black Justices. They appear to have attended the sittings, although their names are not usually mentioned in the headings giving the names of the justices.\textsuperscript{139} This inclusion must have strengthened the Court’s efficiency in dealing with the crime committed by the inhabitants and their disputes. In 1726, the Court served as a civil, criminal, military, admiralty and probate Court, at the same time it even framed rules for the price of bread and wages of “black tailors”. In the latter respect conditions were not far different from those in England, where the Justices of Peace settled the price of bread and the regulation of wages. The Directors of the Company were naturally wishing for keeping the administration of justice in their own hands and therefore asked for the establishment of Mayor’s Court to deal with ordinary civil and criminal work.

In addition, Court availed the services of \textit{Vereadores}, a term primarily applied to an alderman and municipal officer.\textsuperscript{140} Their main function seems to have been more like those of commissioners to take accounts, or to enquire into a particular matter and report to the Court.\textsuperscript{141} They also gave certificates to claimants who produced them in Court and relied on them but sometimes they were overruled. The \textit{Vereadores}, who were elected by the landholders, had other duties such as mustering of the militia and the collection of taxes.\textsuperscript{142} They also appointed the guardians of minors, when authorised by the Court to do so. In this respect they appear to have superseded the

\begin{itemize}
  \item \textsuperscript{137} Fawcett, \textit{First century of British Justice in India}, 170, 178. For full account of his trial see Malabari, \textit{Bombay in the Making}, 291-327.
  \item \textsuperscript{138} For details see Fawcett, \textit{First century of British Justice in India}, 180-81.
  \item \textsuperscript{139} Malabari, \textit{Bombay in the Making}, 494.
  \item \textsuperscript{140} Da Cunha, \textit{origin of Bombay}, 230.
  \item \textsuperscript{141} Malabari, \textit{Bombay in the Making}, 468,470.
  \item \textsuperscript{142} G.B.C.I, I, 212.
\end{itemize}
panchayats or Chambers established by Aungier. It seems that Caste and community headman are probably ceased to function actively.  

_Vereadores_ had possibly to same extent taken the place of native tribunals which up to about 1696 were responsible for administering justice to Indian inhabitants of the island. They audited accounts like a Panchayat connected with the Court during 1720-1727. About 1726 they were granted certain judicial powers which they retained until 1775.

Campbell cited the instance of the Commission dated May 30, 1694 to one Kaji Ibrahim, who was appointed Chief Judge of the Muslims. This was evident from the following letter: “The right honourable Sir John Gayer, Lieutenant General of all India, by virtue of the authority given to me by commission. I bear from the right honourable societies of merchants trading to the East Indies do constitute and appoint you Kaji Ilbrahim to be chief judge and decider of all difference that may happen in your caste the Moors on the island of Bombay, willing and commanding all your said caste to obey you in the said station according to commission given you sealed with the right honourable Company’s seal and given under my hand in Bombay castle in the 30th May 1694.”  

_Cases concerning the Muslims were often referred to Qazi and Chowgulas for inquiry and report. This was done in civil and criminal matters._

During this period one case of immense importance was of Rama Kamati which aroused lot of interest in Bombay. The details of this case can be seen in the next section.

**BOONE AND RAMA KAMATI AFFAIR**

Rama Kamati was a Shenvi. His surname probably was Kamati, to which old document have affixed a superfluous (i). Kamati had been an old ally of the Company and apparently had given the Bombay Council much assistance in the time of stress. This is evident from a letter of the Surat Council to Bombay on June 30th 1690:

---

143 Malabari, _Bombay in the Making_, 478-80; Fawcett, _First century of British Justice in India_, 183-84.

144 Campbell, III, 7.

145 Malabari, _Bombay in the Making_, 478-80.

146 Da Cunha observes that Rama Kamati was a Shenvi Brahman. Douglas too agreed with Da Cunha that Rama Kamati was a Brahmin.
"On the island is Ramajee Kamajee an old trust servant of the right honourable Company and one that has stood by them to fighting the enemy. He is one of the general had the great kindness for his, good services and knowing him to be a great suffered by the war promised him encouragement. Those that knew him give him a very good character"\textsuperscript{147}

In 1718, Rama Kamati was convicted for high treason. The chief evidence against him being a letter Dated October 12\textsuperscript{th}, 1718 purported to have been written by him to Kanhoji Angria, which Commenced as follows:

"... Senhor Kanhoji Angre Sarqueel- Ramjee Kamati, your servants write with all veneration and readiness of your service and with your favour I remain as always our general here has resolved in Council to attack the fort of cundry (Khanderi on Kennery) and thus it is agreed to environ the said fort on 17\textsuperscript{th} October and the armada, powder and ball and all other necessaries for war was ready. I therefore write your honour that you may have the said fort well furnished"\textsuperscript{148}

A consultation of the Bombay Council dated February 1720 also recorded: “The President lays before the Board translate of several papers and letters containing certain information of Rama Comattee having unlawfully and treacherously held and carried on a correspondence and trade with Conojee Angria both before and since the present war to the great dishonor and prejudice of the Right Honourable Company: all which are now read, and for a methodical proceeding against him, ordered that Messrs. Walter Brown, John Courtney, Owen Phillips and John Horne collect and draw up from the said informations a regular charge and lay the same before the Board with all convenient speed; and that till we bring them to a trial, his moveable effects be secured under the Company’s seal; that the receiver of the revenues that take charge of tobacco farm and that of Vereadores of Bombay and Mahim take care of the oarts and those of the Right Honourable Company rented to him. The aforesaid papers likewise giving us some reasons to suspect that Dulba Bandaree has been an accomplice with Rama Comattee in carrying on the said correspondence, Resolved

\textsuperscript{147} G.B.C.I, I, 93.
\textsuperscript{148} Ibid., 157-158.
that a guard be immediately set on his person and goods till we can examine farther into this affair."\textsuperscript{149}

The charges levied against him were as follows:

- In December 1717, when the Bombay Governor and President was in treaty with Kanhoji Angria about the ship *Success* belonging to the Company merchant Govardhandas, Rama Kamati informed Angria not to return the ship to Company as it belongs to the merchant of Surat and not to the Company.
- In October 1718, Rama Kamati informed Angria about Company's move to Kenery Island to attack him.
- He intercepted or cause to be intercepted the letter of Portuguese to Bombay about the proposal of treaty against Angria. He not only kept the letter but informed Angria.
- He counseled and advised Angria to invade the island.
- He carried the unlawful trade and commerce with the enemy at several times.
- He discouraged and intimidated the sepoys put under him to carry out war against the enemy in November 1718. He even paid no heed to Antonio D'costa, the subhedar of the company who was approached by the enemy officer Mohpada for returning of the fort to Company.
- He being apprehensive of being caught moved his estate and treasury to Thana in December 1719.\textsuperscript{150}

To these charges Rama Kamati replied that he did not inform Kanhoji Angria about the owner of ship *Successes* as its of no advantage to him and more Angria himself take notice of everything whenever he catch hold of any ship. Secondly, it was he who told the Governor about the weak state of Kenery fort. Thirdly, there is no proof that he has intercepted any letter written by Portuguese. Fourthly there is no reason to believe Antonio D'Costa, if such was the case he should have revealed to the Governor or his commanding officer Captain Stanton. There was no proof that the letter sent to Angria was written by him as they did not match his handwriting. Finally, he also concludes that it was easy to make a forge seal by those who are accusing him. He further said his accusers are making use of bribes, threats and fair

\textsuperscript{149} P.D.D. No.1-A of 1720, 30.
\textsuperscript{150} Ibid., 35-39.
promises to procure evidence against him. Therefore, hopes that the board will free him of the charges seeing his good services rendered to the Company.\textsuperscript{151}

In this whole trial Rama Kamati asserted that witness were brought over to swear against him by bribes, threats and other means but he failed to bring any proof against the charges levied against him i.e.,:

- His answer to the first charge was denial and evasion though he provided no evidence in his favour.
- The enemy neglect to follow his advice, thus, no proof that he did not send letters to Angria.
- His earlier good services were no reason to believe that he was not guilty of treason.
- Antonio D’Costa did not inform to the Governor, did not mean that, he did not convey the message to Rama Kamati.\textsuperscript{152}

Board on 11\textsuperscript{th} April 1720 found him guilty of charges and ordered that he should be confined in prison during his life time and his estates should be forfeited to the Company.\textsuperscript{153} Thus accordingly most of his property was confiscated or purchased by the Company, including cocoanut groves and rice lands valued at Rs 58,000 and a warehouses in the bazaar, 86 feet long valued at Rs 6,000 the upper portion of which was transformed in the Court of indicator.\textsuperscript{154} The same fate was shortly afterwards shared by Dalbha Bhandari,\textsuperscript{155} who was likewise confiscated for treason.\textsuperscript{156}

It is possible that the trial, which caused considerable excitement throughout Bombay and western India, might have ended in the acquittal of the accused, but for the action taken by Boone “on his our responsibility” writes Phillip Anderson “The Governor examined the clerk” (Rama Kamati Clerk) respecting the contents of the letter but

\textsuperscript{151} Campbell, I, 146-47.
\textsuperscript{152} Campbell, I, 148.
\textsuperscript{153} P.D.D. No.1-A of 1720, 60.
\textsuperscript{154} Consultation 4\textsuperscript{th} July; PDD No. 1- A/1720, , 158, also see letter from Bombay castle, 4\textsuperscript{th} July 1720 F.H.S II , 20.
\textsuperscript{155} Dalbha Bhandari was accused of several high crimes and misdemeanour. The indictment against him was read on 13\textsuperscript{th} of May 1720 in English and Portuguese languages. He pleaded not guilty. But is seems that he was at the end sent to keep Company with Rama Kamati in “trunk” a corruption of Portuguese tronco, word used originally in Lisbon for prison or jail, Da Cunha, \textit{origin of Bombay}., 350.
\textsuperscript{156} Consultation 26\textsuperscript{th} Feb 1720, consultation 13\textsuperscript{th} May 1720, PDD No. 1- A/1720 ,30, 109.
could not induce him to make any disclosures "so availing himself of his antiquarian
knowledge and remembering, we presume that the treason. His honour resolved to try
whether the secret could be wretched out and to use his own words the man "did not
confess till the iron were screwed on his thumb, smart where of brought him to
confession."

As far as the trial of this case is concerned Phillip Anderson says:
"We have no reasonable doubt that government was a tool of base conspiracy and as
much committed a cruel act of oppression. It is probable that the prisoner, a native
love of intrigue, had so far played a doubtful game as his secret communication with
Angre, but the evidence adduced to prove that those were treasonable was damagely
false. Never even in India Courts of law were perjury and forgery used with less
Scruple and more subtly. Many years afterwards when he condemned man had
pinned in prison his families were sunk in depths of Poverty, and his judges reposing
comfortable in belief that they had administered impartial justice, it oozed out the vile
caitiffs had forged the letters, which were reproduced against Rama and attached to
them fiction seal".

FEW OTHER CASES
Another case was the trial of the trooper by Mr. John Braddyll for insulting him and
his wife.

The trooper almost rode over them one night being remonstrated with, he answered,
"Good you; if I had had a pistol I would shoot you through the head for a farthing"
"would you" asked Braddyll "yes I would "he said "you are rogue and rascal". The
trooper was Mathew Bogle, He was condemned to receive thirty nine lashes in the
public bazaar and to be sent on board one of the Company's vessel there to serve
during the Governor's pleasure without pay.

Another was the trial of ignorant woman, named Bastok for whichcraft. She
professed to cure sick persons by charmed Rice. She was convicted of this offence on

157 Ibid.
158 Phillip Anderson, The English in Western India, 50-52
159 Da Cunha, Origin of Bombay, 350-351.
the 5th of July 1729 and the Court ordered that “she receives eleven lashes at the church door, and after words she and all persons that are found guilty of the like do such penance in the church as customary." John Braddyll succeeded Parker as Deputy Governor and was appointed as Chief Justice of Bombay. Soon he came in conflict with Charles Boone over the issue of a trial of a naval officer Lieutenant Josua Wise, who was in jail for the charge of incitement of mutiny during the expedition against the Angria. Soon he was removed from his post but was again brought back as Chief Justice in 1727 and was succeeded by Robert Cowan. Finally this Court was replaced in 1728 by Mayor Court.

LOCATION OF COURT (1668-1727)
The locality of the Court of Judicature changed several times between 1668 and 1727. At the outset justice was dispensed in the custom house. In 1671 Aungier’s decided that “a fair common house, wherein might be appointed chambers for the Courts of justice, warehouse and granaries for corn and ammunition, and prisons for several offender” should be built. Counsels of economy from London resulted in restricting the building to simply a Court house.

In 1676, the provision of proper Court house was again discussed by the Bombay Council. Originally the justice held their sittings in the custom house of Bombay and Mahim. When the judge was appointed some house was taken as Court of Judicature. But, later it was decided to buy the house of the Deputy Governor. Eventually the Court was housed in new building in the bazaar. According to Fawcett, it was the house built by Petit and Giffard which had been taken over as a Court house in October 1676. The records contain no mention of the Court being moved to another building in 1676 or 1677. Fawcett further believes that it was improbable that, if the building was nearing completion in 1676 and was intended to be used as Court of Judicature, Aungier would have agreed to the other house being purchased for the Court. Even according to him the dimension of the new Court of judicature did not correspond with those of the Mopla Por as indicated by Campbell. Completion of

160 Ibid, 351.
161 For details see Fawcett, First century of British Justice in India, 180-81.
162 Malabari, Bombay in the Making, 494.
163 G.B.C.I, I, 212-213.
164 Campbell, III, 3.
165 E.F.I, 1670-77, 162.
Aungier's Court house in 1676 the Courts of justice was moved into it, and there remained until the year 1720.

The remains of this Court house, which is known as Mopla Por are still to be seen on the west side of Bohra bazaar street, about three hundred yards north west corner of Elphinstone circle, and constitute the oldest relic of British dominion in Bombay. In 1720 the Court and town hall were again removed to the warehouse of Rama Kamati, which stood at the corner of bazaar gate Street and Dwarkadas lane, and in this building justice was dispersed until 1786, when horn by house, the present great western hotel, was converted in to Court house.  

**MAYOR COURT**

The judicial system in Bombay at the close of first quarter of eighteenth Century was very ineffective that the Court of Directors made a representation to the King in which they emphasized the need to establish Mayor Court at all the three centers, Bombay, Madras, and Calcutta, for speedy and effective administering of Justice in civil cases and for the trying and punishing of capital and other criminal offences and delinquency. As a result of this request on 24th September 1726, a new Charter was issued creating Mayor's Courts at Bombay, Madras, and Calcutta.  

Mayor Court consisted of a Mayor and nine aldermen and eight of whom including the Mayor were to be the naturalized citizen of British Crown but the other two might be the subjects of any friendly nation. All the aldermen were to be selected from the principle inhabitants of the place, were to hold office for life unless suspended for misconduct and were to elect the Mayor annually among themselves. Appeals against the Court decisions might be carried up to the President in Council and in civil suits involving a certain amount to his Majesty's Privy Council. These Courts were declared Courts of Record and were empowered to hear civil cases of all kinds, subject to an appeal to the Governor and Council. At the same time the Governor and

---

166 G.B.C.I, I, 212-213.
168 Ibid, 231.
Council were authorised to hold quarter sessions for trial of all offences except treason. 169

The new Charter however reached Bombay in February 1728. The Chart publically read on 10th February 1728 and the President, Mayor, Sheriff and aldermen took oaths of allegiance. The Mayor Court was opened at the town hall with V Draper Esquire, the first Mayor and Edward Messey, John Lambton, Arthur E Bendall, Henery Albert, and Allan Chambre merchants were selected as alderman. The Mayor also appointed two attorneys of the Court, one the registrar and the other Mr. John Sarson. It was ordered the register prepared two petitions suggesting to the governor a provision for the expenses of the Court. 170

At the consultation of 1st March 1728, two petitions from the Mayor Court were presented and after calculating necessary expenses and charges of the Court and salaries of several officers of the Court, it was found present cash was very insufficient. thus decided to request the Board to relieve Court by placing some of the officers namely a clerk, a sergeant, six sepoys on the military list and the fine of Rs. 2 be appropriated towards a new prison to be taken out of the treasury and entrusted in the hands of the Court. To this the Board agreed that officers may be supplied from the military list as the Court desires and Rs. 2000 will be paid out of the treasury of the Court. 171

After many years of request the court took up the question of gaming in which Gaming led to many grave consequences and even women were not immune. so the Court decided that no covenanted servants or others under their service whether civil, maritime, or any free merchants under their protection, or any women married or unmarried belonging to their covenanted servants or others under protection shall ever be discovered to have played at one time at any sort of game.

169 Campbell, III, 9
170 Ibid. The first Mayor was Mr. William Henry Draper, who was re-elected as a Mayor in 1771 and his yearly salary of Rs 500, while the alderman were granted a monthly allowance of Rs 12, which was subsequently raised to Rs 14 to cover the attendance in Court. 170 At the outset the Mayor and Senior Alderman were appointed as cash keeper of the Court. Fees of the Court is too high, small cases, the court, upon the complaint of the Party, may relieve, but if said complaint is frivolous, then the Party is to have a small fine laid on him; PDD 3A/1728-29, 154-156, 275, 45-46.
171 P.D.D. No.3A/1728-29, 2; F.H.S, II, 43.
the value of ten pounds sterling or upwards, and thereof convicted before by two credible witnesses, such offender whoever he be and in what station so ever, shall *ipso facto* dismissed from the service and sent home by the first shipping. The ten pound limit was made as per the rule prevalent in England where by Act of Parliament all gaming for above ten pounds value is strictly forbidden.\(^{172}\)

The functioning of the Mayor’s Court was far from smooth functioning. It had to encounter many problems which come in the beginning of the new institutions. For instance Lowther, the Chief of Surat, being called upon by the Court to execute a commission for examining witnesses bluffly questioned their authority, and did not even condescend to treat them with Courtesy. It is true that the government took up the quarrel on that accession and reprimanded the chief, but at other times they interfered with the Court’s action and fettered its proceeding’s. The consequence was that although the Mayor’s salary was Rs. 625, a year, the same as the old Chief Justice but the office would under the ordinary circumstances have been coveted by senior as a valuable addition to their emoluments and influence, it yet became so difficult to find the qualified persons for the post that frequently no candidates were forthcoming on the 20th December, the day fixed for election. Repeatedly re-electing the Mayor as often as his term had expired, it become necessary to raise the fine for refusal to serve from Rs.100 to Rs. 400; and this again led to disputes between the Court and the government, each insisting upon their supposed right to enforce this penalty, government however in this instance agreed to waive their claim until a reference

\(^{172}\) On the 28\(^{th}\) February 1727 the Directors wrote: “We are greatly concerned to hear that the mischievous vice of gaming for great sums of money continues and even increases among our covenant servants, free merchants, and others residing at our settlements in India, and that the women are also infected therewith, to the ruin of many as well on boardship as on shore. In England by Act of Parliament under severe penalties all gaming for above ten pounds value is strictly forbidden. That we may do what in us lies to prevent the evils which sooner or later generally attend and frequently ruin gamesters, we peremptorily forbid all manner of gaming whatsoever in any of our settlements or elsewhere in India, to the amount of ten pounds or upwards. If any of our covenant servants or others in our employ whether civil, maritime, or any free merchants under our protection, or any women whether married or unmarried belonging to our covenanted servants or others under our protection shall ever be discovered to have played at one time at any sort of game, for the value of ten pounds sterling or upwards, and be thereof convicted before you by two credible witnesses, such offender, be he who he will and in what station so ever, shall *ipso facto* dismissed the service and sent home by the first shipping. The court proceeds: We easily foresee that the reproach of informing may keep persons silent who may know of such gaming. To prevent this we direct that you enter in your Consultations a particular account of the persons who shall from time to time be proved guilty of such gaming, and also of the accuser or accusers. For the encouragement of such accuser, if he be a covenant servant, we direct that he shall be allowed a year’s standing in our service and be further entitled to our favour as a person inclined to check this vile practice.” Court to Bombay 28\(^{th}\) February, 1727, Campbell, I, 261-62.
could be made to the Court of Directors and proper regulations be received.\textsuperscript{173} In January 1740 the Mayor Court ordered that every alderman resident of the island in future will be allowed the monthly sum of Rs. 12 as the Palanquins allowance. Next year the palanquin allowance was raised to Rs. 14.\textsuperscript{174}

The ‘cow’s oath’ which Mayor’s Court had imposed on Hindus witnesses was also very unpopular, thus was strongly objected by all castes of Bombay and was abolished in 1774 on the instructions of the Directors, based on the opinion of cow’s standing council in London. The Company was always vigilant not to offend the religious susceptibilities of the people, and since the cow’s oath made those who took it out castes and all who gave evidence in manner before the Mayor’s Court.\textsuperscript{175}

The following extract give the history of a dispute regarding the form of oath administered in the Mayor Court: At the consultation on the 22\textsuperscript{nd} April 1746 the Board read a petition from the merchant from Hindu caste on the island above their uneasiness at the proceedings of the Mayor Court. The first ground of complaint was the seizing Dharamdas Nagar’s books and papers and taken to the registers house where they can be inspected. This was done on the verbal orders and with no application was filed and only a percept was issued by the Court for the purpose.\textsuperscript{176}

The second objection was obliging Hindu to take oath Court on all occasions upon the cow. This practice gave great uneasiness and offence to Hindus especially the higher caste. The practice put them to expense and trouble as after taking such an oath they were obliged to make offerings and pay Brahmans for performing several rites and ceremonies. This petition was board took into consideration. It was observed that as the Mayor Court obliged them to swear upon the cow on all occasions is the chief cause-of uneasiness. At the same time it is to be noted that an oath taken on the Hindu book \textit{Gita} is esteemed and sacred as any other oath in the Mughal or other government under which the Hindus reside.\textsuperscript{177}

\begin{flushright}
\textsuperscript{173} G.B.C.I, I, , 215.
\textsuperscript{174} F.H.S, II, 221.
\textsuperscript{175} G.B.C.I, I, , 215.
\textsuperscript{176} P.D.D. No. 19 –l/ 1746, 125.
\textsuperscript{177} Ibid., 126.
\end{flushright}
The Mayor Court replied to the Board in June 1746 regarding the cow oath that the Court wants neither the report of the inhabitants nor any certificates to convince them of its legality or illegality. They are very much assured that it is a sacred and obligatory oath agreeable to the religion and to the laws of the Hindus and this have been practiced on the island from many centuries. The intention of the Court by administering the cow oath in civil cases is to promote justice and truth. The Court further said that several witness have declared that it is same as taking oath on Gita. The Court thus requested the Board to put a stop to the unwarrantable proceedings of the some of the inhabitants who seem resolved to obstruct the course of justice in defiance of laws and religion of the Hindus and the constitution of the government.\textsuperscript{178}

The merchants again wrote to the board regarding the cow oath later in the year and even some of the Surat merchants informed from their correspondences to the Board that such an oath were never taken in Gujarat, Deccan and at other places.\textsuperscript{179} In response to these and other petition by the merchants the Board finally asked Court to do away with this practice.\textsuperscript{180} This practice was finally done away with in 1774.

The consultation of 28\textsuperscript{th} February 1741 the Board records the following letter: the Coroner and marshal, the former at Rs. 12 and the latter at Rs. 28-3-75 a month, to be paid by the country. The letter further said that the poverty of the inhabitants ion the island will not admit a proper assessment to defray the same, and these officers are very essential for the island but they see no way to provide relief from that expense. To this the Board replied in 1743 after many deliberations to fix Rs. 44 as a tax per month on the inhabitants for defraying the charge of the Coroner’s and marshal’s wages.\textsuperscript{181}

\textbf{MAYOR COURT AND PUNISHMENTS}

Punishment was stringent and arbitrary in those days for e.g. for helping some shroffs to flee, one Thakurs was to receive thirty nine lashes at public whippings at Bombay and the like number at Mazagaon, they confined to hard labour on ditch for six months and finally to be transported for life. The punishment for petty thefts was

\textsuperscript{178} P.D.D. No. 19 –I/ 1746, 188.
\textsuperscript{179} Ibid., 249-50.
\textsuperscript{180} Ibid., 361-62.
\textsuperscript{181} Campbell, III, 21.
whipping inflicted at a cart's tail while the delinquent was led around the town; or it meant a public whipping on market day.\textsuperscript{182} Felony was the capital crime, as in England at this date, and when Mr. Jenkinson's escritoire was robbed of 15 guineas by his slave boy in collusion with his horse keeper, the Alexander and Fakirrao were both sentenced to be hanged.\textsuperscript{183}

The sentence for burning was the only sentence the Court could legally pass for treason. The penalty for compassing the husband's death was the same as high treason. Gangi, an inhabitant of the island was indicted for petty treason for aiding and abetting Vitha bhandari in the murder of her husband, to which she pleaded not guilty. The jury made no exception on the basis of evidence and passed the same sentence as in the case of Vitha bhandari, who was sentenced to death for murder.\textsuperscript{184}

On the other side, when George Scott, a member of Council, justice of Peace, marine paymaster, and keeper of the custom house at Mahim, was convicted of the grossest oppression of three natives for the purpose of extorting Rs. 10, he was merely fined £5 and deprived of his commission as a justice of peace.\textsuperscript{185}

Another class of case which figured in the records of the proceedings of the Mayor's Court was that in which the prisoner was charged with 'Fascination'. Fascination is however, derived from Fascinum, the amulet which Roman women wore round their necks to ward off the evil eye, also called bewitchment, thirty years earlier on 5\textsuperscript{th} July 1729 an ignorant woman named Bastlok for which craft. She professed to cure sick persons by use of charmed Rice. She was convicted of this offence; the Court ordered that "She receives eleven lashes at the church door."\textsuperscript{186} And afterwards she and all persons that are found guilty of the like do such penance in the church as customary,

\textsuperscript{182} Malabari, \textit{Making of Bombay}, 284-285.
\textsuperscript{183} F. H. S. II, , 409-13
\textsuperscript{184} Ibid., 411.
\textsuperscript{185} George Scott was appointed as a member of Bombay council on 7\textsuperscript{th} March 1746, See PDD 16-I/1746, 61-62; There were also changes against him for firing some Bhandari robbers, Scott knowing that the Court of Directors would not deal so leniently with him, resigned from the Company's service after publicly accusing the government of being just as bad as himself. See PDD No. 21-I/1748, 250; But later we see he was appointed as the Chief of Anjengo, after committing such offences, see consultation on 24\textsuperscript{th} February 1752, PDD No.-25-I/1752 , 68-69.
\textsuperscript{186} Da Cunha,, \textit{Origin of Bombay},351.
so far as can be gathered, the culprits were not punished for being witches but for causing terror by pretending to be so.

By 1760, the gentleman who administered justice in Bombay no longer feared the black art themselves; but they had no objection to acting upon the convictions of natives and were ready to punish any of whom the voice of scandal or of public opinion pronounced to be sorcerers. Even the government itself felt constrained to issue a proclamation on the subject in 1754, declaring that "where as Callia and Custom, inhabitants of Worli, have been convicted of fascination by the evidence of several people and by their own confessions, which tending greatly to disquiet the order to prevent such a pernicious practice in future, hath thought fit to ordain and direct the said Callia and custom to be publicly hogged at the cart’s tail through this town, Worli and Mahim and to deter others from such an evil custom in future, that all persons whatever who have any suspicion of any one’s practicing this evil act, must make declaration thereof, otherwise he will be deemed equally culpable with the delinquents. On the Contrary, making a discovery shall be entitled to a reward of ten rupees, to be paid by the caste to whom the offender belongs; and that no person may presume to plead ignorance here of to the said President and Governor hath caused this notice to be punished by beat of drums and affixed at the usual places." ¹⁸⁷

The working of Mayor Court was not free from defects thus, in the Middle of eighteenth century led to the grant of a new Charter on 8th January, 1753, which reestablished the Mayor’s Court and repealed the provisions of earlier Charters regarding the powers of the Governor and Council as a criminal Court. The Mayor’s Court was there by limited in its civil jurisdiction and was forbidden to entertain suits between natives of Bombay except with express consent of parties. By this Charter of 1753, all vacancies for alderman were to be filled in by covenanted servants if possible and two names were to be submitted of which one would be chosen by the Governor and Council as Mayor. The Charter made very clear that the Mayor’s Court was forbidden to entertain suits between the natives of Bombay without the express consent of both parties. A registrar was appointed, apart from it an accountant general

was also appointed to keep accounts between the President and Council and Court and also to pay in suitor’s money effects and securities.\(^{188}\)

These Courts had a jurisdiction solely over disputes related to Company’s factories and to offences committed within Bombay and in places directly subordinate to it. They did not have jurisdiction over the native inhabitants whose affairs were be left decided among themselves through Panchayat or Indian jury system, until they specifically requested to be tried by the English in these Court.\(^{189}\) A Court of Request was also created in addition in 1753 which had the Summary disposal\(^{190}\) with commissioners from eight to twenty four, and authorized the Court of Directors to frame rules and by laws for the working of the Court. The Court accordingly issued certain rules for this and other Courts and also appointed eight commissioners of the Court of Requests, with instructions to continue holding office for certain fixed period and to arrange for twice of their number to sit every Thursday.\(^{191}\)

**SUMMING UP**

When the English took the island from Portuguese the system of judicial administration was very much on Portuguese lines. It was thus very difficult for them to remove this system for once and all. It was because the English factors were not professed in law, there were no codes to guide them, and no law reports to enlighten them. It was only in the times of Gerald Aungier several efforts were taken to establish court and bring judges to run those courts on the island. It was he who gave the shape to Bombay judicial administration and established though in rudimentary form Bombay panchayats and office of Coroner etc.

Later the Charter of 1683 authorised the Company to make war and maintain forces in factories. Through this Charter, Court of Admiralty, to punish interlopers was also

\(^{188}\) According to Morley the natives of Bombay were never actually exempted from the jurisdiction of the Mayor’s court. In the charter of 1726 the right of electing a Mayor had been given wholly to Alderman.; For Detail See Campbell, II, 22.

\(^{189}\) Rodriguez, op.cit., 169.

\(^{190}\) It appears from a letter of 1753 from the Court of Directors that they had long considering the establishment of such court, and all deal with small cases not exceeding 5 pagodas or Rs. 15 in value.

\(^{191}\) G.B.C.I, I, Fn. 219. The 1st Commissioners were charter waters c, white bill, Swan, Geekie, J. Ryley, A. Starkic, R. Broughton, John Jones, S. Lacey also see Campbell, II, 23
established. It should however be noted that the civil law\(^{192}\) introduced by the Charter was applicable to the Court of Admiralty which tried limited cases in its civil and criminal jurisdiction. The Court of judicature was still governed by the Company’s laws of 1669. The instruction from the Company to publish a schedule of laws, including the orders received from the Company and local byelaws (Bombay was authorised to make temporary by laws to meet emergent situation) and to provide copies of justice to Court, was not attended to as there was no competent persons to do the job.

There was hardly any judicial working during the period 1690 to 1718 largely due Sir John child’s mismanagement of the company’s affair, Keigwin’s mutiny, the rivalry of old and new East India companies etc., all these contributed to upset the administration. But it was in 1726, The Mayor Court was established under the Charter of 1726 for effectual administration of justice in civil cases. But this Charter was also not free from defects, which led to the grant of the Charter of 1753. Consequent of the Charter of 1753 which continued administration of justice under some alternatives deleted from the jurisdiction of Mayor’s Courts all Suits and actions between the natives only and directed that these Suits should be determined among themselves. The justice suffered because the Mayor’s Court knew nothing of jurisprudence is misleading. Most of the litigations were of simple character, such as, claims from debts and dealt with in a prompt and satisfactory manner.

The Mayor’s Court was merely a Company’s Court till it was superseded under a Royal Charter. It had a very wide jurisdiction being empowered to try all cases civil or criminal subject to a right to appeal to the Admiralty Court in civil cases, where the value of the award exceeded three pagodas and in criminal cases the offender was sentence to lose limb or life. Mayor Court in Bombay was set up in 1728. Civil Suits were later on tried at the Court of requests. The jurisdiction of Mayor Court was restricted to Suit sand actions between the natives only. The Supreme Court put an end to Mayors Court in 1774. In Bombay and Madras they lasted up to 1798 when the receiver’s Court was substituted, the System of confining the administration of

\(^{192}\) In July 1686, the Company wrote that the Acts of parliament in England could be made applicable as laws in India. The company further classified in February 1687 in their letter to Bombay Showing that the use of civil law was proper for India rather than the common law of England, which was peculiar to England; For Details See Malabari *Bombay in the Making*, 160-161.
justice to the covenanted servants of free man of the Company. Thus, ended and professional lawyer took his place in presidency town. The Court of those days irrespective of their defects made an effective contribution to the development in India of high stand and of justice.