Chapter Eight

JUDICIAL ADMINISTRATION - CIVIL
The legal powers conferred upon the East India Company by the Charters of the British Parliament were for the sole purpose of controlling military and naval forces and for the internal government of factories and trading stations. The Government of Madras Presidency, however, had two aims in view, viz., to preserve peace and tranquility in the territories in its possession and to secure revenue for commercial purposes of the Company.

Early Judicial Administration

When the Company acquired Jagir from the Nawab of Carnatic, it was mainly concerned with land revenue. The administration of civil and criminal justice was left in the hands of Anmildars and the renters, just as the internal administration of the country was in the hands of the Nawab's servants. These people did not possess any rules to guide them. They had no specified jurisdiction, their authority was not specified either by written or unwritten laws. When the Company took over direct charge of internal administration, the prevalent judicial system continued. After the enactment of Regulation in 1791, the Collectors of Revenue were authorised to decide the disputes coming before them. The Collectors either decided the cases themselves or referred them to Juries or Arbitrators (Panchayats) named by both the

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parties if relating to castes or religion.

Courts of Justice

Prior to judicial regulations of 1801, justice in Madras Presidency was administered through separate civil and criminal courts. For civil cases there were Mayor's Court, the Courts of Appeal, Commissioners Court of request for petty cases. Criminal cases were put up before the Justices of Peace, who were appointed for a month with a quorum of three justices. They were required to meet once a week, and there was a quarterly Court of Sessions. The Court of Directors was not satisfied with judicial system of Madras, and wanted a change over to Bengal judicial system.

Wellesley greatly admired the judicial system prevalent in Bengal which was founded on the "principles of British constitution".

In a letter dated 21st April, 1795, the Court of Directors ordered the abolition of the provincial councils. They expressed a desire to the Madras Government for the adoption of revenue and judicial regulations here. They were first to be introduced in Northern Circars, Jagir and Ceded Districts. The Madras Government in its reply dated 22nd October, 1795, informed the Court that it did not possess

requisite knowledge of the country as yet, to introduce Bengal judicial regulations. Only progressively, the administration of justice could become effective.

The Court expressed its desire to the Supreme Government, for the establishment of a revenue and judicial system in Madras in accordance with Bengal Regulations. Wellesley, the Governor-General, in a public despatch dated 6th August, 1798 issued instructions to the Madras Government for reformation in Civil Department. The Madras Government accordingly appointed a Committee for making proposals for reforms in the Civil administration of Madras. The Committee in an elaborate report in 1799 suggested the introduction of judicial system on lines similar to that in Bengal.

Establishment of Supreme Court - 1800

As the need for the establishment of judicial system was apparent in the Madras Presidency an Act for the establishment of Supreme Court of Judicature was passed by the British Parliament in 1800. This Supreme Court at Madras was invested with the same powers and authority as the Supreme Court in Fort William. It had full powers to exercise Civil, Criminal, Administrative and Ecclesiastical jurisdiction over all Indian and British subjects.

The Supreme Court of Judicature consisted of one Chief Justice and two other Puisne Judges. Their main qualification was to be Barrister in England or Ireland of not less than three years' standing. The Chief Justice was given the rank just below the Governor of Madras. The Supreme Court was to have such jurisdiction and authority, as was enjoyed by the Court of King's Bench in England, in accordance with the circumstances.

All the Acts passed by the Government were required to bear the concurrence of the Supreme Court, only then could they become laws of the Presidency. The judgment of the Court was given by the majority of Judges. The Chief Justice had a casting vote. A seal of His Majesty's Arms was to be kept with him and this was to be the seal of the Supreme Court of Judicature of Madras. All writs were to be issued under the seal and in the name of the King. The Chief Justice was to be paid a salary of £6,000 a year and the Puisne Judges £5,000 each. These Judges were prohibited from holding any other office or carry on trade.

The jurisdiction of the Supreme Court extended to all British subjects. It had the power and authority to try, hear and determine all the Civil suits, that might have been tried at Mayor's Court. The Court did not have any jurisdiction over the Governor, or the Governor-in-Council. The Witnesses

1. Ibid, para 18.
were to be summoned and sworn in the Court. On the contempt of the Court, a fine or imprisonment could be awarded. The Indian witnesses were only to be summoned by the Indian Courts. There was a provision for the prosecution of suits against the East India Company. The Governor-in-Council at Madras was required to appoint an Attorney. The Company could sue any person. The Court was given an equitable jurisdiction similar to the Court of Chancery.

The Court was empowered to exercise authority over the persons and states of infants and lunatics. It enjoyed criminal jurisdiction as a Court of Oyer and Terminer. It had criminal jurisdiction over the King's subjects on offences committed by them even in the territories of Indian Princes. The Governor and his Council were exempt from criminal jurisdiction in certain cases. The Court had ecclesiastical jurisdiction and could grant Probates of Wills of dying persons.

A right of appeal was to be given on the decision of the Supreme Court. The appellant was required to deposit security for defraying all the costs. The Court had to execute orders and judgment of His Majesty's Court.

With the establishment of the Supreme Court, all others were to cease operations. The rules of the Court were to be transmitted to the President of the Board of Commissioners for the affairs of India.

With the establishment of the Supreme Court, an imperative need of the territories under the Madras Presidency
was fulfilled. It was an establishment of the King's judicature, not in any way subservient to the East India Company, rather having a power over it in certain matters. The Judges appointed by His Majesty were entirely independent of the Company's Government. Through the establishment of the Supreme Court the sovereignty of the King was declared, and a sort of dual authority created.

In the year 1801, His Majesty, the King, granted a Charter for the establishment of a corporate body in Madras. It was to consist of one Mayor and Nine Aldermen. All the British Officers were enjoined to assist in the execution of those laws.

The Committee appointed by the Madras Government for reformation in Civil Administration proposed promulgation of Judicial and Revenue regulation for internal administration.

Judicial Regulations of 1802

In 1802, Judicial Regulations were promulgated by which the district or provincial Courts and Court of District Munsif and subordinate Judges were created for the administration of Civil Justice. The Indian Commissioners were appointed to look into the internal judiciary. Civil Courts were established for trial of civil suits by Regulation II of 1802.

Regulation III was enacted for receiving, trying and deciding suits and complaints, which had been declared cognizable in the courts established in several districts. By Regulation IV the provincial Courts were established for hearing appeals from district courts. Their powers and duties consisted in prescribing rules and deciding appeals. By Regulation V, a Sadr Adalat for trying appeals on decisions of Provincial Courts of appeal was established.

All these Regulations for Civil justice were framed upon the pattern of Bengal Code of 1793, which was based on English system of Judicature. The credit for the establishment of judiciary in India goes to Lord Cornwallis.

The Madras Judicial Regulation of 1802 brought about an independent judiciary. Through this system, the Collector, the head of executive, was shorn off all the judicial and police powers. Judiciary consisted of European district judges, for civil as well as criminal cases. They were assisted by 'native commissioners' selected from the Indians. Supervising authority in judiciary was the Provincial Courts of Appeal. According to Eric Stokes "this system had the effect of Anglicising the administration, absolutely divorced from local authorities".

Captain Read and Lionel Place, men of integrity and experience, questioned the expediency of Wellesley’s judicial proposals. Thomas Munro regarded it as "ruinous to people

and prejudicial to the government". Lord Edward Clive, the Governor of Madras, was the Governor-General's friend. He agreed to carry out these measures oblivious of the disastrous consequences. Soon after the newly created estates fell down and mistake was realised by Bentinck.

The Court's orders for formulating judicial regulations were implemented. An era of justice in its proper form began. After the judicial regulations of 1803 the first worthwhile change took place in 1806, when the Zillah Courts (District) were established in those districts by Regulation II of 1806, where Permanent Settlement was established. Through Regulation IV of 1806 the constitution of Sadr Adalat was altered and a new Judge was appointed.

In the year 1809 when the volume of work had increased, Regulation VII of 1809 was promulgated for the occasional appointments of Assistant Judge of Zillah (District) Court. The jurisdiction of Registers could also be altered, but by section 6, they ceased to be the final authority. Now, the decision of a Zillah Judge on the appeal to the decision of Register was considered final. Through Section 9, the Head Indian Commissioners or Sadr Ameens were authorised to try cases up to the value of 100 rupees.


Permanent Settlement of land revenue and anglicised judiciary was unable to meet the requirements of the people. A great misery was afflicted through land tenure as described in Chapter Six.

Independent judiciary could not safeguard the people. It was beyond their capacity to comprehend the complicated judicial machinery. This system, though suitable for landed aristocracy, was incompatible with autonomous village communities.

The Judicial administration thus established was carried on until 1816, when major reforms in judiciary were effected through regulations enacted by a special order of the Court of Directors.

Effects of the Establishment of the Courts

A new epoch in the Madras administration was ushered in, by the establishment of these Courts. A considerable improvement occurred in the morale of the inhabitants. The Indian Commissioners employed through the regulations proved quite useful. Law and order was established.

Judicial Regulations, though highly beneficial in certain aspects, did not fully meet the ends of justice. The judicial system thus enacted proved to be too complicated and expensive for the local population. The inhabitants were unable to derive benefit bestowed upon them. They looked upon written laws and regulations with great awe, which had made pleaders indispensable. These Vakeels or Pleaders were
themselves illiterate and promoted litigation. The public again suffered from the delay in the decision of their cases. Long distances were to be covered by them, the expenses of journey and court fees etc. provided further impediments in the way of justice. The Board of Revenue considered them as "cumbersome formalities". Ravenshaw, the Collector of South Arcot Division, in a report of 1908-9 to the Board of Revenue observed that the tardiness of legal procedure with its forms prevented the individuals from bringing forward their genuine grievances. It was cheaper, he added "for the complainants to submit to be plundered than to attempt to seek redress". The inadequacy of the judicial administration at the Madras Presidency was ably pointed out by Col. Munro in his reports to the Board of Revenue.

**Munro's Report**

Thomas Munro, during his administration of Ceded Districts (1801-1807), thoroughly studied the language and customs of the people. He found that the land revenue settlements and judicial administration of the Company were incompatible with the old traditions of the people. He studied original system of judicial and revenue administration here, and introduced them with great success in the Ceded Districts. But the new system of judicature, as introduced in 1802, clashed with the revived ancient revenue system or Ryotwari.

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Settlement. The system of judicature through *Panchayats* was fully compatible with the *ryotwari* system of land tenure. In various reports to the Board of Revenue he described the benefits of *ryotwari* system of revenue and the *Panchayat* system of judicial administration.

In his report of 15th August, 1807, to the Board of Revenue, Munro pointed out that whatever the mode of revenue collection might be, the *ryots* suffered great inconvenience and distress from the judicial regulations. The evils pointed out by him were "delay, vexation, bribery and wrong decision". As even petty suits were brought before the judges; justice was hardly administered because its procedure was slow and did not meet the demands of the country. People were exposed to great hardships as they were summoned to district courts in every trifling case of litigation. At headquarters of the Court, they were detained for weeks, even months. On reaching home again they were summoned for another case at a distance of about fifty or hundred miles. These trifling suits could better be settled on the spot.

Munro observed that the European judges were inferior to Indians in their knowledge of people and their customs. Only the Indians could differentiate between the motives of

1. Ibid. Report of Col. Munro to the Board of Revenue, dated 15th August, 1807, p.233, para 20, Vol.II.
2. Ibid. Judicial Letter from the Court of Directors to Fort St. George, 29th April, 1814, pp.240-41, paras 18 and 19.
opposite conduct of the accused. In cases of litigation respecting water, boundary of villages and privileges of caste, reliance could seldom be placed on the evidence without collateral proof. The European Judge had to take the help of interpreter.

**Recommendation of Munro**

Munro advocated revival of ancient institutions for peace and justice through anglicised regulations. To eradicate evils in judicial administration, the most effective remedy was trial by Jury. Through *Panchayats* alone justice in a populous country like Madras could be administered. He further observed that trial by *Panchayat* was the common law of India, as Jury was of England. Indians did not consider that justice was administered, if it was not done through trial by *Panchayat*. In their belief God exists in the decision of *Panchayats*. Col. Munro further observed that if still corrupt practises existed in the Judiciary, it would be a disgrace to the *Panchayats* constituted by the inhabitants, and not the Judiciary constituted by the Government.

Munro described *Potails* or *Muccadims* and *Curmum* or *Patwaris* as local guardians of the village, keeping law and order, possessing essential knowledge of affairs, and intimately conversant with individual characteristics of people. They were regarded by the public as their natural

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1. Ibid, para 17.
and permanent superiors in a country frequently changing its masters, by internal disturbances or through external attacks. The utility of Potails was recognised in the judicial affairs and the internal economy of the country. In another report dated 15th May, 1806, Col. Munro observed "every village with its twelve Ayonnagadeas is a kind of little republic, with Potail at the head and that India is a mass of such republics". Characterising the influence of these local officers he stated "Potail is still the Collector, Magistrate and Head Farmer. From the age of Manu till the time the settlements were made with or through Potails. The people considered them as the real rulers. Munro pointed out "he who rules the provinces rule the villages".

Munro advocated the establishment of Panchayats in the interior of the country with Potails and Curnums at the head for speedy and inexpensive justice to the inhabitants. This mode of justice was suited to the conditions of the country, according to the ancient usages and customs.

He further considered the unison of authority of revenue collection, police and magistracy in the heads of

1. Ibid.
villages to be adequate to the requirements of the country. His Ryoitwari System of land revenue and judicial system of Panchayats had a countrywide application. It is said

"Perhaps there never lived a European more intimately acquainted with the characteristics, habits, manners and institutions of the natives of India, because there never lived a European who at once possessed better opportunities of acquiring such knowledge and made use of them". (1)

Munro was responsible for the rapid improvement of the Madras Presidency. The judicial, revenue and police reforms were enacted and executed under his guidance.

**Action taken by the Court of Directors**

The Court of Directors received from the Madras Government a judicial despatch dated 15th March, 1811. It contained the report submitted by Munro to the Board of Revenue and the reports of the Judges of Circuit Messrs Grant and Read. By Section 37 of Regulation III of 1802 the Judges of the Circuit were required to submit a report to Fauidari Adalat regarding the condition of Criminal Justice, the state of jails, treatment meted out to prisoners and other important matters. It was the first document of this description received from Madras. The Court directed the Madras Government to supply them with complete series. The following were considered as defects of the judicial system.


DEFECTS IN THE EXISTING JUDICIAL SYSTEM

1. Heavy Expenditure

The first and foremost defect was the increasing expenses of the judicial establishment at the Madras Presidency. In the year 1811-1812, it amounted to £348,262, exclusive of the expenses of the Supreme Court of Judicature, diet of prisoners and police. The previous instructions to the Government of Madras had not served any purpose. It had not been possible to fix any limit to these expenses.

2. Pending Arrears

Another defect in judicial administration was the arrears of suits pending in the Courts. The measures adopted by the Madras Government for their liquidation were akin to measures already adopted by the Bengal Government, by the augmentation of Judges in Sadr Dewani Adalat, but even this step did not reduce the number of cases. Though the constitution of the Courts was useful in punishing the guilty yet justice was delayed. Though Madras Government increased the number of Judges, but this system had already failed in Bengal.

1. Ibid., 29th April 1814, p.237, para 6. About the pendency of suits in Adalats, Cornwallis in 1793 described the cases to about 60,000, and described the delay as "ruinous to the suitors, as defeating and ends of justice, and striking at the very root of prosperity of the country". That condition persisted there. The number of suits pending in 1812 was 20,281 so it was found necessary to pass a regulation for augmentation in the number of Judges, in Sadr Dewani and Nizamut Adalat of Calcutta.
3. Inadequacy of Judicial Code

The provisions of Judicial Code for India had proved highly beneficial in certain respects, but they utterly failed in the accomplishment of the most material ends. The inhabitants hesitated entering District Courts from despair of having their suits settled in a reasonable time. The delay and expenses of the journey to and from the Court, leaving their homes at the time of cultivation of land, caused serious injury to the interests of the cultivators. In Madras Presidency the number of suits decided by the Court as compared to the population was disproportionately small. The reason for this was given as the vast extent of district and provincial courts. The Court of Directors pointed out that even if the number of the courts was doubled, the administration of Justice would remain inadequate.

4. Judges and Registers were European Agency

The European Judges were unable to understand the behaviour of Indians, so the appointment of Indian Judges was favoured, who could serve the ends of justice by their understanding the background of people, their domestic lives, conversation, amusements and other individual characteristics. Col. Munro’s observations were also in the same strain.

The Europeans unacquainted with the country and its manners were liable to commit great mistakes through misconceptions, in spite of their best efforts. As they had to

1. Ibid, p.239, para 12.
depend upon the Indian servants of the Court, this had led to extensive abuse and perversion of the ends of justice, as the judge was unable to understand the language.

5. English Procedure of Law unsuitable

The Judicial Code in Madras was drafted on the pattern of English Judicial System suitable for landed aristocracy. The processes and forms of these tribunals were essentially those of superior tribunals. In genuine grievances, the utter futility of legal system loaded with forms and materially obstructive proceeding, was realised. The inhabitants were unaccustomed to such a lengthy procedure. They were accustomed to their very simple rules and summary procedure, therefore were unable to comprehend the refined and intricate nature of rules and regulation provided by law.

6. Growth of Licensed Pleaders

In each Court the licensed pleaders were appointed for the exposition of rules and regulations which were beyond the comprehension of the common man. The Vakeels, though their appointment was for the help of the suitor usually hindered both the plaintiff and the defendant. Their livelihood depended on the encouragement and creation of frivolous and vexatious litigation. The Vakeels had a very superficial knowledge of the regulations. Col. Keith, who was one of the

1. Ibid, p.241, para 22.
framers of law at Madras Presidency, expressed his opinion of Vakeels in a contemptuous way. The worst consequences of judicial system were Vakeels who, usually illiterate, had the opportunity of committing abuses undetected. They promoted litigation by holding forth false promises of success. "I do not hesitate in saying that one great cause of litigation and delay in law suits has arisen from the native pleaders", he concluded. While the public was in total darkness about their legal rights, their simple minds were poisoned by crafty pleaders through false promises. The Board of Revenue distinctly averred that "the licences of pleaders and vakeels have led to a series of frauds and corruption in the Zillah and Provincial Courts". The employment of licensed vakeels connected with judicial system was difficult to abolish, but remedial measures were to be adopted.

7. The Written Procedure and Right of Appeal

Another cause for delay in the decision of suits was the adoption of the English procedure for law, of committing everything to writing. The latitude of appeal allowed from the decisions of registers of Zillah Courts and from the decision of Judges, afforded a cause of delay in the settlement of those disputes. The original Regulations placed restrictions on the appeal, but by Regulation III of the year 1809 all restrictions were removed.

1. Ibid, para 23.
8. **Increase in Judicial Expenses**

Since 1808, the original expenses of prosecution of suits had been the maintenance of witnesses and employment of Vakeels. After that charges of direct Fees on the institution and trial of causes and petitions along with stamp duties were added. These measures were proposed to prevent litigation on groundless complaints. The Sadr Dewani Adalat in a report in 1813, pointed out that by charging judicial fees, the arrears of suits had been reduced. The number of vexatious suits had diminished, at the same time many genuine judicial injuries had not been redressed due to judicial costs.

The Court of Directors made a careful study of the reports of Munro and Circuit Judges. They conducted enquiries from the Company's servants who had returned from Madras on leave or retirement. The Court of Directors after great deliberations took action after three years. The considerations of mounting expenses in the judiciary and police compelled them to take some effective measures, so that the finances were relieved of the heavy pressure. The defects, as pointed out through the reports of their servants in India and Government despatches, required complete changeover in the department. The Court had previously instructed the

Madras Government to carry out reductions in the expenditure on judiciary, but the curtailment was of a trifling nature. So it was thought proper to revise the whole judicial administration. In a policy letter dated 29th April, 1814, the Court of Directors ordered the reform. It was a turning point in the judicial, revenue and police administration of the Madras Presidency.

**New Structure of Judicial Administration**

Under the directions from the Court of Directors, Potails and Curnums were to be assisted by the Panchayats. Under the watchful supervision of the British authorities, forming the nucleus of judicial administration, they would be most beneficial to the inhabitants of the Madras Presidency. Through the supervision of European Collectors in Revenue Department, the corruption among the Indian servants of the Company had been reduced. The Court of Directors adhered to the practical principle of leaving the detailed management of the affairs in the hands of Indians, according to existing customs and usages of the country. The English had to see that local inhabitants did their duty, rather than doing it for them. The Court prescribed the duties of European servants of the Company to be the supervision of Indians and keeping a vigilant eye over the internal administration of the Company.
Notification of the System as proposed by the Court

The orders of the Court of Directors consisted of the following points:

(1) The Potail, by virtue of his office, was to act as Commissioner and referee in his own village.

(2) The litigant parties were at liberty to ask Potail for Panchayat.

(3) The cases of boundary disputes were to be referred to Potails and Panchayats for final decision.

(4) In the beginning the jurisdiction of Potails and Panchayats was to be limited to a small amount.

(5) The Potails were required to act as arbitrators; no appeal was allowed, except on charges of partiality and corruption.

(6) The decisions of the Potails and Panchayats were not to be final except in cases of boundary disputes and arbitration.

(7) The execution of decision in cases of appeal was not to be stayed, unless the sums were fixed by the Government.

(8) Between the office of Judges and Potails, intermediary judiciary, original and appellate, was to be established and Indians of rank and responsibility were to be put in charge of that. A fixed salary and institution fee was to be allowed to them. Whenever required, Panchayat was to be established for his assistance. In a Zillah, four or five officers of this kind were to be appointed.

(9) This newly created Court was to have jurisdiction over personal property and malguzari land, the limit being fixed 200 Arcot Rupees. Their authority was final in cases of five pagodas, and for appeal in 10 pagodas.

(10) No institution fee or stamp fee was to be charged in these village courts.

1. Ibid, pp. 245-6, paras 48, 49.
Col. Thomas Munro, on account of his great experience, was appointed the first Commissioner, according to the directions of the Court of Directors. At his suggestion, Strachey was appointed the second Commissioner.

Execution of the Court's orders by Madras Government

On the receipt of orders from the Court of Directors, the Government at Fort St. George in a minute dated 1st March, 1815, deliberated on the course of action to be adopted. In order to execute them with exactitude, they assigned it separately to the appropriate departments as directed by the Court's orders. A special Commission was appointed to draft the Regulations, under paras 60th, 62nd to 64th, 66th and 71st of the Court's orders. Regulations were to be drafted for the establishment of District Courts under orders contained in para 67th to 70th of the Court's letter. These regulations were to be drafted by the Commission and submitted to the Government through Sadr Adalat. Only special appeals were to be allowed under the instructions contained in para 27th of the Court's letter. The necessity and usefulness of licensed Vakeels was to be examined.

1. Ibid. Judicial Letter from the Court to Fort St. George, dated 4th May 1814, p.257, para 3.

The Governor-in-Council expressed his strongest desire to implement the orders of the Court of Directors, conveyed through their judicial letter dated 29th April, 1814. There was no difference of opinion in the Board regarding the spirit of regulations as they belonged to the country.

Further directions from the Home Government

The Court of Directors approved the instructions issued by the Madras Government to the first Commissioner Col. Munro in visiting the districts for the purpose of communicating personally with local authorities, on the system of internal administration, whether its operation would oppose or promote the comforts of people, and for the prosperity of the country and the means by which it may be improved. The Court of Directors instructed that the Collectors and Judges should facilitate the enquiry of the Commissioners from time to time. The provision of Regulation XXIX of 1802 should not be allowed to interfere with the research of the Commissioners. The Court was happy to observe that there was complete understanding between the Government of Madras and the Commissioners. However, the one point of difference was the transfer of magisterial functions to the Collector. Col. Munro interpreted that it was not merely the superintendence and control of the Police but transfer of all the duties of magistrate to the Collector, while the Governor-in-Council considered it to be

1. Ibid. Judicial letter from the Court of Directors to Fort St. George dated 20th December 1815, p.314, para 10.
just the superintendence and control of the Police establishment by the Collector.

The Court declared that its intention was the same as interpreted by Col. Munro.

Thus in all the reforms relating to judicial administration Col. Munro was the pivotal authority. The Court had full reliance on his ability and judgment. It had concurred with the interpretation of Col. Munro, thus exhibited full confidence in him. However, the partiality on the part of the Court created hostility towards him in the Madras Government.

On being informed about the controversy in the Madras Government, the Court of Directors in a letter dated 12th May, 1819, expressed their regret over this state of affairs. They desired that the Government at Madras should employ its individual energies for the execution of measured directed from Home authorities. The Court observed that Col. Munro's

1. Ibid., p.313, para 12. The Court of Directors expressed their utter satisfaction with the views and sentiments of the Commissioners for their accuracy and ability to define the course for giving effect to the Court's instructions. They had faithfully justified and vindicated their appointment. The Madras Government was instructed to afford them full support.

2. Extract from despatch dated 12th May, 1819, para 4. "There is no object which we have more at heart than giving a very full and fair trial to this new system, and we look to those who exercise the powers of Government, and to our servants acting under their authority in the revenue and judicial departments for the most zealous exertions in carrying out instructions into effect. But our object will be entirely defeated unless the regulations were administered in the spirit in which our instructions were conveyed."
services as the Commissioner were generally acknowledged as crowning act of "his long and honourable public life".

**The Enactment of Regulations**

Col. Munro as first Commissioner and Strachey as second Commissioner, after a thorough study of the conditions of the country by touring into its interior, and gaining first-hand knowledge, enacted several judicial regulations. These regulations were submitted to the Government through **Sadr Adalat** in 1816.

**Judicial Regulations**

By Regulation IV of 1816 the principal inhabitants of the villages were declared **Munsif** who had powers to hear and decide civil suits for a fixed sum of money. The object of this regulation was to lessen the work of **Zillah Court** and to diminish the expenses of litigation in petty suits, saving the individuals from long absence from their places and expenditure of journey.

**Panchayats**

By Regulation V of 1816, village **Munsifs** were authorised to call the village **Panchayats** for adjudication of civil suits, for sum of money or personal property without limitation to amount or value. The object of this Regulation was to diminish

the expense of litigation. The Headman and the intelligent inhabitants of the village were thus employed in useful and respectable work.

1. Regulation VI of 1816 abolished the office of Native Commissioner and gave those powers to District Munsif. By Regulation VI, the District Munsifs were authorised to call district Panchevats, for adjudications of civil suits for real and personal property, without limit as to amount or value within their respective jurisdiction.

Through Regulation VIII, Hindu and Muslim Law Officers were appointed for Provincial Courts as Sadr Amins or head Native Commissioners.

Regulation IX of 1816 enacted certain rules for the office of Zillah Magistrate. The office of Zillah Magistrate was transferred from the Judge to the Collector of Zillah.

By Regulation XIV of 1816, rules regarding vakeels or Native Pleaders in the Court of Civil Judicature were amended and modified.

Through Regulation XV of 1816, jurisdiction of Zillah and Provincial Courts and Courts of Sadr Adalat was modified, in trial of original suits and appeals. Through the enactment

1. Ibid, pp.267-79.
4. Ibid, 339-49.
5. Ibid, 360-60.
and promulgation of these Judicial Regulations the Government of Madras Presidency implemented the orders of the Court of Directors dated 29th April, 1814. The expenditure on judicial administration, one of the leading factors of these reforms, registered a decline. Judicial Administration was made compatible with the revenue administration. The hereditary and other Indian Officers put in charge of village affairs. Institution of Panchayats and Ryotwari system of revenue, brought the rulers in contact with the interior of the country. The prevalent defects in the judicial administration were removed to some extent. On the whole change over was for the better administration of the country, which was further extended to other parts of India.

Report of Judicial Commissioners, 15th October 1818.

The Commission, after the completion of work assigned to it by the Court of Directors, submitted its report. It observed that in the Judicial Department, Home Government’s orders were carried into effect by the enactment of Village Munsif and Panchayat Regulation, District Munsif and District Panchayat Regulations, Sadr Amin Regulations, Criminal Judge Regulations and Police Regulations.

The Commission pointed out number of cases which were settled by Zillah and Native Courts had greatly increased. The inference could be made from the following extract.

The number of cases pending before the Zillah Judges and Registers was reduced to 3,565 in 1818.

In the Indian Courts, the cases had been doubled and appeals had become fewer. The number of cases decided by Potails in the year ending 1817 was 10,744 and by Village Panchayat 457. The Commissioners further adduced that if they had acted according to ancient usage of the country, unfettered by Regulations, the number would have been much more. There were several impediments in the progress of system:

"the pains, penalty and prosecution which it denounced their fear of European courts, and their consequent reluctance to engage in any thing which may be likely in most remotest degree to bring them before these tribunals. The Regulation, it is true is not a long one, and does not authorise any penalty, to which the Potails were not in similar cases always subject under native Government, but to men like them, unaccustomed to written rules, every regulation appears to be long and intricate and to entail some penalties which they know were liable at all times for misconduct seems to them much more formidable, when presented to their views in the shape of written law". (3)

The administration of justice, when fettered with Rules and Regulations, though based on the ancient customs overawed the people. In the Indian Judiciary, at the district level, well qualified personnel was available, who had already served in Revenue and Judicial Departments. Their knowledge and skill

1. Ibid, p.630, para 8.
2. Ibid, para 9.
enabled them to decide a great number of suits in a very short time. The inhabitants had full faith in them and crowded these Courts. Excepting petty local disputes and agricultural matters, the bulk of Civil justice was put in to their hands. The Tribunals exercised a great check over them. The Munsifs had to carry their duty conscientiously for fear of losing their fees as well as jobs through corrupt practices.

THE EFFECTS OF NEW JUDICIAL SYSTEM

Quick Disposal of Suits

The number of suits pending before Zillah Judge had been reduced to half, while in Indian Courts was doubled. A number of cases were decided on the spot. The inconvenience to the inhabitants and delay in the final decision was diminished. Another advantage was reduction in cost of litigation by exemption from fees and charges.

Reduction in Expenditure

The Accountant-General was directed to prepare a comparative statement of the charges for the last five years in revenue, judicial and police establishments. The main item of new expenditure was through the establishment of District Munsifs, while reduction was made through abolition of Court of Cochin and four Assistant Judgeships, Thanedars
and other Police Officers. The following abstract depicts increase and decrease under different heads:

1. Actual decrease by reduction of Police, Darozah and Thanedar.  
   Star Pagodas 33,816

2. Proposed decrease by abolition of Cochin court and four Assistant Judge-ships.  
   30,409

3. Proposed decrease in Zillah Adalat  
   Actual and proposed decrease 12,000

   Increase by the establishment of Munsifs 22,928

   Total actual and proposed decrease 53,297

Saving at the abolition of Court at Guntoor 15,000

68,297

The salary of Indian servants was very low so the dismissal of a few of them did not make any significant difference. The European establishment was really a costly one, by whose modification some considerable reduction could be effected, but they were essential for the supervision of Indian District and Village Munsifs; otherwise, if left to themselves, they would revert to various abuses practised before. In the Collector's establishment the reduction and augmentation happening simultaneously made it difficult for the assessment of savings resulting from new system. The

1. Ibid, p.634, para 20.
great benefits accruing to the inhabitants from the establishment of new judiciary were their suits being settled near home without much delay and expenditure.

**Europeans as Supervisors only**

The spade work was to be done by Indians and the Europeans were to act as supervisors over them. The Court of Director's orders for the revision of judicial administration were, thus, carried into effect.

**ABOLITION OF ZILLAH COURTS**

**Disparity between the Revenue and Judicial Departments**

The Court of Directors desired that the higher offices of the Madras Presidency should be occupied by personal possessing a thorough knowledge of revenue in the provinces. There existed a great disparity between the Judicial and Revenue Departments. The number of posts carrying greater emoluments was higher in judicial department, and the chances for promotion were easier; so it attracted talented persons.

Thomas Munro, the Governor of Madras, recorded a minute dated 22nd January, 1821, on this important aspect of administration. The conditions prevailing in the Judicial Department were conducive to attracting the talented and experienced officers.

The following abstract clearly exhibits the disparity between the two:

In Provinces 30 Collectors 4,000 pagodas each month or with extra item pagodas 5,000 per annum.

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Pagodas</td>
<td>100,000 per annum</td>
</tr>
<tr>
<td>Twenty Zillah Judges each 8,000</td>
<td>160,000 per annum</td>
</tr>
<tr>
<td>Twelve Provincial Judges from pagodas 10,000 to 12,000 average</td>
<td>132,000 per annum</td>
</tr>
</tbody>
</table>

Munro proposed the abolition of certain Zillah Courts in which a small quantity of work existed. In Revenue Department a service similar to Judicial Department was essential. It should consist of sub-Collectors, Collectors and Principal Collectors, in a gradual manner. This mode of administration was to be experimented in some of the largest and best regulated collectorates. According to the Regulations of the Board of Revenue, all the junior servants of the Company were required to put in at least two years in the Revenue Department. By the creation of a regular Provincial Revenue Service i.e. Assistant Collector, Sub-Collector and Provincial Collector, a new avenue would be opened up and the inducement to judicial service would cease.

Tanjore and Coimbatore were two districts selected for the formation of principal collectorates.

1. Ibid. Judicial Letter from the Court of Directors to Fort St. George dated 11th April 1826, p.92, para 34.
The abolition of Zillah Court in Munro's opinion would curtail all the extra expenses in the formation of collectorates.

Revenue

Twenty Collectors who received in year 1819-1820
allowances varying from Rs.200,000 to Rs.3,586 … 578,690

Twenty Zillah Judges at fixed
salary of Rs.28,000 each per annum … 560,000

Twelve provincial Judges at 35,000
to 42,000 each per annum … 132,000

Total … 692,000

Munro, after the comparison in expenditure and salaries of both the departments at existing scales and gradation, gave a glimpse of the revised administration after the abolition of the Zillah Courts and the appointments of two principal and two Sub-Collectors as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Rupees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional salary to a Principal Collector</td>
<td>42,000</td>
</tr>
<tr>
<td>Salary of a Sub-Collector</td>
<td>14,000</td>
</tr>
<tr>
<td>Allowance of a Sub-Collector on extra holds of revenue</td>
<td>1,050</td>
</tr>
<tr>
<td>Total allowances</td>
<td>15,050</td>
</tr>
<tr>
<td>Kutcherry of sub-Collector</td>
<td>7,000</td>
</tr>
<tr>
<td>Total additional expense of Collectorate</td>
<td>26,250</td>
</tr>
<tr>
<td>Expense of two Collectors</td>
<td>52,500</td>
</tr>
<tr>
<td>Deduction charge of Zillah Court abolished</td>
<td>54,041</td>
</tr>
<tr>
<td>Total difference</td>
<td>Rs. 1,541</td>
</tr>
</tbody>
</table>

1. Ibid. Minutes of Sir Thomas Munro, p.78, para 7.
He farther pointed out that the influence of the Collector in one district was limited not to revenue matters, but affected the whole welfare of people. In India, the Revenue Officer was considered mainspring of peace and power. Munro did not expect any rapid improvement in the revenue department through these measures; but, in the long run, he felt that they would be productive of all the advantages contemplated therein.

The Court of Directors, in a Judicial letter to the Government at Fort St. George, expressed concern over the abolition of Zillah Courts. They pointed out that the special Judicial Commission had also attached great importance to that office, for check and supervision of Village and District Munsifs. The existence of Zillah Courts throughout India was a proof of its utility. The extensive jurisdiction of Zillah Court had been a constant source of complaints. The abolition of Zillah Court would increase the abuses already prevalent. The arbitrary acts of police officers would remain unchecked. The reports of Faujdar Adalat and judges of Circuit stated the necessity of urgent protection to the public from Police Officers. Thus, after stating their views, the Court expressed their reliance on the prudence and ability of Thomas Munro, in the abolition of Zillah Courts. They

1. Ibid. Judicial Letter from the Court to Fort St. George 11th April 1826, p.83, para 8.
highly appreciated his recommendations for improvement in the revenue branch of administration by employing principal and sub-Collectors raising the rank and emoluments of the former, so as to secure their continuance in that department. He provided them with sub-collectors, so that the principal Collector could pay more attention to important affairs.

The Court again reverted to their fears of weakening the judiciary by extending the jurisdiction of Zillah Courts. They even suggested the abolition of these Courts and a new arrangement in judicial department. The conditions which the Court deplored in 1814 should not be allowed to prevail again. A suggestion for the creation of Assistant Civil and Criminal Judge in every Zillah was put forth for facilitating the judicial procedure. The Zillah Judge might work in occasional circuit to acquire intimate knowledge of Police. The Court of Directors agreed with Munro, in attaching high importance to the office of Munsif.

By Regulation I of 1821 the Governor-in-Council was empowered to establish or abolish Provincial and Zillah Courts, to extend or contract the jurisdiction of some and to alter the station at which they were held for the sake of public economy and convenience of people.

So, through the judicial reforms of 1816 Munro was able to restore the administration of civil justice into the

hands of people. The rigid separation of judiciary and executive was thus ended. The Collector, executive head of the district, was given 'paramount authority'. He was vested with authority over revenue, police and became a magistrate. He was the sole incharge of the district. These regulations enhanced the prestige of the government in the Madras Presidency.

In the Bengal Presidency the judicial system of 1793 loaded with legislation was retained, which was not a great success. In the words of Eric Stokes "thus the personal semi-military organisation of Madras district stood in contrast to the divided and impersonal administrative system of Bengal".

Judicial system of Madras administration was highly admired by the other administrators in India. Metcalfe, the Resident of Delhi from 1811 to 1819, like Munro, considered it proper to leave the local institution intact. The Governor of Bombay, Mountstuart Elphinstone, was much impressed by Munro's Rvotwari Settlement of revenues and judicial reforms. During his tenure at Bombay from 1819 to 1827, he carried out Munro's Rvotwari Settlement for revenue, Panchayat and other judicial reforms. He strengthened the executive authority of the Collector by combining the office of magistrate and collector.

It is clear that while in the Northern India separate judiciary and executive authority existed in tune with local conditions, in the Southern India executive was made strong on the district level. It cannot be said that later systems had some grievous defects which were not contemplated by their originators.

On whole the influence of the Home Government on the judicial administration was salutary one. From anarchic situation in the country, proper law and order was restored which was the mainstay of British rule. The judicial regulation protected common people. Through the Court of Directors orders of 29th April, 1814, judicial reforms were executed by the Madras Government through the enactment of judicial regulations in 1816, by which ancient system of Judicature was revived to certain extent, thus ameliorated the condition of the people. Judicial administration of the Company was more successful at Madras than the Revenue administration. As there was no clash of interest between the Company and the people.