

INTRODUCTORY

One of India's well-known historians wrote about the French over a quarter of a century ago :

The French have not been a great colonising nation and have not been successful in planting many colonies. This is perhaps greatly due to their being on the whole an honest people, for colonising requires the practice of fraud and treachery on the part of its author.¹

This may have been meant as much as a compliment to the French as an indictment of those who have been successful colonisers.

Among the colonies of the French was one known as the French Establishments in India. They consisted of five small units.² Three of them, including Pondicherry, the largest of the units, were on or near the south east coast of India, one was on the west coast, and the fifth near Calcutta in the north. That there was no geographical contiguity is too obvious to be mentioned. There was also linguistic diversity. In Pondicherry and Karaikal on the east coast the inhabitants spoke Tamil, in Yanam, again on the east coast, Telugu was the language spoken, while in Chandernagore, near Calcutta, Bengali was the language of the people. In Mahe on the west coast, Malayalam was spoken. A similar diversity in general culture is also noticeable. In spite of these diversities the people of these several units appeared to have been not too displeased with being French Indians until recently, when, inspired by happenings in British India, a sizeable section of the people desired and agitated for independence. The solidarity among the people of the French Establishments appears to have been mainly due to the French character which inclined to emphasise the attributes of equality

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1. B.D. Basu, *Rise of the Christian Power in India* (Calcutta, 1931) p. 30.
 2. There were also a dozen "loges", territorial enclaves, situated near seaside Indian towns, where the French could carry on trade unaffected by British Indian fiscal or customs regulations. Their total area did not exceed 4 square kilometres and their population 2,000 inhabitants. They were all ceded to India in 1947. See "Les Etablissements Française de l'Inde", *La Documentation Française*, 30 September 1947 (*Notes, Documentaires et Etudes*, No. 735, Serie France d'outre Mer, XXVIII).

and legality and to a greater extent than in British India, those of fraternity and liberty as well. This may have been partly due to legal institutions which the French established and which were attuned to the attributes mentioned above.

Before we proceed to discuss legal institutions in the French Establishments it is necessary to be a little more closely acquainted with the various units which formed the Establishments.

Pondicherry, described as "the living monument of French culture in India,"³ edges the Coromandel coast and is bounded by the Bay of Bengal on the east and by the South Arcot District of Tamilnadu on the other three sides. It does not form a contiguous area. It has an area of 293.77 square kilometres⁴ and a population of 339,931.⁵ It consists of eight communes (that is, territorial administrative divisions) namely, Pondicherry, Mannadipet, Villianur, Nettapakkam, Mudaliarpet, Ariankuppam, Ozhukarai, and Bahur. The eight communes contain altogether 93 major villages and 141 villages of minor importance.

Pondicherry was founded by François Martin in 1674. As a result of wars between various European powers in India and sometimes owing to vicissitudes of wars in Europe, Pondicherry changed hands often in the 16th and the 17th centuries. In 1761 it fell into the hands of the English who retained control over it for 23 years. It may be mentioned in passing that neither the Dutch nor the English replaced the French law prevalent in the Establishment by their own laws. After a series of such changes in possession it was restored to the French in 1816 under the terms of the Treaty of Paris, 1814.

Karaikal, situated about 100 kilometres south of Pondicherry, is bounded

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3. Home Tourism Department, Government of Pondicherry, *Pondicherry, India*.
 4. Bureau of Statistics, Government of Pondicherry, *Abstract of Statistics*, 1959, Appendix A, Area by Village, p. 139. *The Statistical Handbook 1969-70*, published by the Government of Pondicherry gives the following figures for the various regions of the Union Territory. Pondicherry 291 sq. km., Karaikal, 159 sq. km., Mahe 9 sq. km., Yanam 14 sq. km. *Techno-Economic Survey of Pondicherry* (National Council of Applied Economics, Delhi, 1965) as well as *Handbook of Statistics* for 1961-62 gives the following : Pondicherry, 290.1 sq. km. Karaikal, 158 sq. km., Mahe, 10.4 sq. km., Yanam, 20.7 sq. km. In official documents published by the French Indian Establishments the figures were : Pondicherry, 29,145 hectares, Karaikal, 13,515 hectares, Mahe, 5,909 hectares and Yanam, 1,429 hectares (*Annuaire des Etablissements Français dans l'Inde* 1935, pp. 144-148).
 5. The population figures given are from the Provisional Population Totals of the Census of 1971.

on three sides by Tanjavur District of Tamilnadu and on the east by the Bay of Bengal. It has an area of 149.20 square kilometres and a population of 100,003. It comprises six communes, namely, Karaikal, Grand Aldee, Nedungadu, Kottucherry, Neravy and Tirunallar. It contains 110 villages. Karaikal was taken over by Gratien Golard in 1739. It was later on ceded to France by the King of Tanjavur for 50,000 *chakras*.⁶

Mahe on the Malabar coast, situated some 400 kilometres west of Pondicherry, consists of two pockets : one is bounded in the east by the Arabian Sea and on the other sides by the Kozhikodu District of Kerala State; the other is an enclave in the Cannanore District of Kerala State. With an area of 8.41 square kilometres, Mahe, the smallest of the units, in the Union Territory of Pondicherry, has a high density of population. Its inhabitants number 23,122 souls. It forms one commune. Mahe was acquired from the ruler of Kadattanadu who permitted the French to keep a garrison on a piece of land near the mouth of River Mahe.⁷ It was taken back from them, but the French recaptured it. A treaty concluded in 1726 confirmed their right to the territory.

Yanam is situated in East Godavari District, Andhra Pradesh, and is more than 500 kilometres to the north east of Pondicherry. It is a narrow stretch of land bounded in the south by the Godavari and on the east by the tributaries of the same river. It consists of Yanam town and six villages. Two of them are islands in the Godavari. It is 17.29 square kilometres in area and is inhabited by 8,291 persons. It forms one commune. This French Establishment was founded in 1731.⁸

Chandernagore, 30 kilometres north of Calcutta, consisted of 9.4 square kilometres, including the enclave of Goretty. On 19 June 1949 on the basis of a referendum Chandernagore declared itself for merger with the Indian Union. On 2 May 1950 the Government of India assumed *de facto* administration of Chandernagore and on 2 February 1951 a treaty for its cession to India was signed in Paris.⁹

6. *Annuaire des Etablissements Français de l'Inde*, 1935, p. 58; S.P. Sen, *The French in India, 1763-1816* (Calcutta, 1958) p. 107. G.B. Malleon, *History of the French in India* (London, 1893), p. 79. He gives the date of the cession as Feb. 14, 1739. See also H. de Closete d'Errey, *Précis Chronologique de l'Histoire de l'Inde Française, 1664-1816*, p. 24.

7. Alfred Martineau, "Les Origines de Mahe de Malabar" III, *Revue de Histoire des Colonies Françaises*, (1915) 5 at 17.

8. H. de Closete d'Errey, *Précis Chronologique de l'Histoire de l'Inde Française 1664-1816*, p. 22. S.P. Sen, however, states that the settlement at Yanam dated from 1723. S.P. Sen, *op. cit.*, p. 109.

9. In the following pages, reference will be mainly to Pondicherry, Karaikal, Mahe and Yanam (PONKAMY, for short) which at present form the Union Territory

These Establishments in India formed part of the French empire in 1816 when they were either restored to or retained by the French under the terms of the Treaty of Paris, 1814. Their administration under the Empire or the Republic need not be considered in detail. It may, however, be mentioned that most of the metropolitan laws, with certain modifications in some cases, were extended to these Establishments.

They were placed under a Governor with a Privy Council to assist him in his functions. In 1947 when political changes took place in most parts of India the French acted quickly and replaced the Privy Council by a Government Council (*Conseil de Gouvernement*) which to a degree approximated to a Council of Ministers or Cabinet. Its composition, however, was different from what one understands by the term 'Council of Ministers'. It was composed of

the Governor as President,
 the Secretary General,
 the Chief of the Judicial Service,
 the Head of the Department of Education,
 the President of the Representative Assembly,
 the President of the Permanent Commission of the Representative Assembly, and
 the Presidents of the Chamber of Commerce, of Industry and of Agriculture,

as members. The heads of other departments, civil or military, could be authorised by the Governor to attend the Council to explain matters within their jurisdiction.

The Governor formulated by *arrêté* (order) the rules of procedure for the Council. The Council expressed its views to the Governor on all questions which it considered necessary and useful to submit to him. It assisted the Governor especially in all those matters in which the laws, the *décrets* (decrees), and regulations in force required the intervention of the Council.¹⁰

of Pondicherry. The Union Territory is 468.67 square kilometres in area (*Abstract of Statistics*, 1959, Government of Pondicherry; *Statistical Handbook of 1969-70* gives a total area of 473 sq. km. and the *Techno-Economic Survey* 479.2 sq. km.) and has a population of 471,347, according to the *Provisional Population Totals of the Census of 1971*.

10. *Décret* of 12 April 1947 creating the Government Council.

In this form, the Council lasted for a few months only. By *décrets* of 12th and 20th August 1947 the Council was reconstituted. It was now to consist of the Governor¹¹ as President and six members of whom at least three were to be elected by the Representative Assembly and the rest nominated by the Governor in his discretion. The members who manned the Council prior to the cession of the Establishments in 1954 were all elected by the Representative Assembly as the Commissioner of the Republic (formerly known as Governor) preferred election to his own nomination. Reports from the heads of departments could be heard and considered by the Council provided previous permission of the Commissioner was obtained. The Council was required to follow the resolutions passed by the Representative Assembly. It discussed draft orders of the Commissioner, except those concerned with the execution of the laws. The Commissioner had the power to entrust the responsibility of a department to a member of the Council. A member so invested with delegated powers administered the department with the technical help of the officials in charge of it. The heads of the departments received their emoluments from the metropolitan government.¹²

The Representative Assembly of French India which replaced the *Conseil Général* came into being on January 6, 1947. The Assembly consisted of forty-four members elected by universal adult suffrage; 22 from Pondicherry, 12 from Karaikal, 15 from Chandernagore, three from Mahe, and two from Yanam. A new piece of legislation or taxation had to have the approval of the Minister of Overseas Territories before it could be brought into force.¹³

It is of interest to note that there was representation for the Indian Establishments in the French Parliament. One member (Deputy) of the National Assembly was elected by voters of the French Indian Establishments. The Representative Assembly in French India elected a member (Senator) to the Council of the Republic. The Assembly could also elect one member of the Assembly of the French Union. Such a meagre number may not have been effective in decision-making on general matters in the national legislative bodies, but their political influence was considerable in matters relating to the Indian Establishments. They could easily influence the Minister of Overseas Territories. Apart from the measure of influence the representatives could exert, the fact remains that the Indian Establishments were represented in the national bodies. One may be inclined to compare

11. In 1948 his designation was changed to Commissioner of the Republic.

12. See N.V. Rajkumar, *The Problem of the French in India* (New Delhi, 1951) p. 15. *et seq.*

13. *Ibid.*

this position with that of British India which was not represented in the British Parliament.

For purposes of local administration, the French Establishments in the south of India were divided into sixteen communes, eight in Pondicherry, six in Karaikal, one each in Mahe and Yanam.¹⁴ Each commune had a municipal council and each council had a Mayor and two or three Assistant Mayors elected from among the members of the Council. The Mayor assumed in his commune the executive responsibility of the Governor, and saw to the proper publication and execution of the laws and assisted the various departments of government. Subject to the approval of the Governor, the Mayor framed rules and regulations on the basis of the resolutions of the Council. They related mainly to public health and maintenance of public order. It may be mentioned that at the time of writing, the *Décret* of 12 March 1880, as amended,¹⁵ setting up municipalities in the French Indian Establishments, is still in force in the Union Territory of Pondicherry. The administration of municipalities in French India is of special interest to a public administrator and merits careful study.

14. Chandernagore consisted of one commune.

15. It was amended by the Pondicherry Legislative Assembly in recent years by the Pondicherry Municipal Decree (Amendment) Acts of 1966, 1967, 1968 and 1970. The Government of Pondicherry now proposes to introduce in the Assembly Pondicherry Municipalities Bill and the Pondicherry Village and Commune Panchayats Bill to bring municipal and village administration of Pondicherry in line with that in other parts of the Indian Union.