

Lecture-33



Codification of laws

Second Law Commission:

Under the provisions of the Charter Act of 1853, the second Law commission was appointed in England on 29th Nov. 1853. The second Law commission was composed of the following persons - Sir Edward Rayan, Robert Lowe, Lord Sherbooke, V.H. Cameron, J.M. MacLeod and T.F. Ellis. Task Assigned to second Law commission:

The task entrusted to the commission: was to examine and consider the recommendations of the first Law commission and enactments proposed by it, for the reform of the judicial establishment's, judicial procedure and laws of India. The life of the second Law commission was fixed for three years, which was to expire in 1856. Section 28 of the Charter Act, 1853 authorised Her Majesty to direct the commission to submit reports on these Matters and every such report was to be submitted within a period of three years after the passing of this Act.

Reports: The second Law commission submitted four reports to the Indian Government. The first report was submitted in 1855, second, third and fourth reports were submitted in 1856.

First Report: In the first report, the commission submitted a plan for reforms in judiciary and in courts procedure.

Second Report: In its Second report the commission agreed with the lex-loci report of the first Law commission. It suggested that there must be a substantive civil law for persons in the mofussil who had no law of their own. The second Law commission expressed the firm view that no attempt should be made to codify the personal laws of the Hindus and Mohammedans - because any such attempt "might tend to obstruct rather than promote the gradual process of improvement in the state of population".

Third and Fourth Report: In these two reports, the commission submitted a plan for the amalgamation of the Supreme Court and Sadar courts and a uniform civil code of civil and criminal procedure applicable both to the High Court's to be formed by that amalgamation.

Achievements of the second Law commission: The recommendations of the commission resulted in important legislation's e.g.

- i. The penal code proposed by Macaulay was taken up, revised and finally passed in the year, 1860;
- ii. Codes of civil procedure and criminal procedure were passed in the year 1859 and 1861 respectively;
- iii. The draft on the law of Limitation as submitted by the first Law commission was also taken up and passed into law in 1859;