

## **Resuscitation of the Mayor's Court of Calcutta**

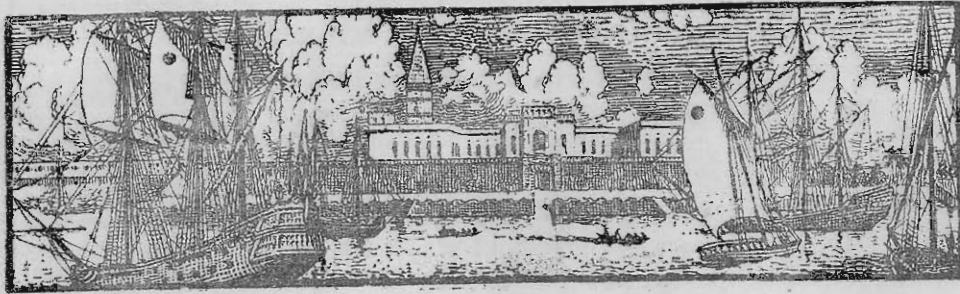
Charles Hampton is elected Mayor of Calcutta on 28 August 1727. The Mayor was not a modern mayor but rather a local court chairman.

The Journal of the Calcutta Historical Society "**Bengal Past and Present**" discussed the Mayor's Court in the leading article of No 15 of Vol VIII Jan-Mar 1914.

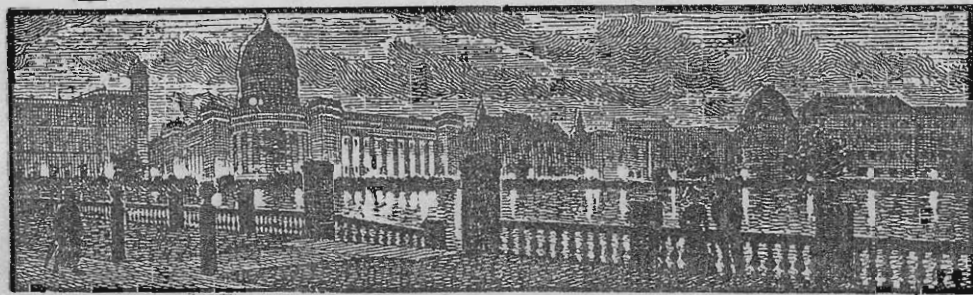
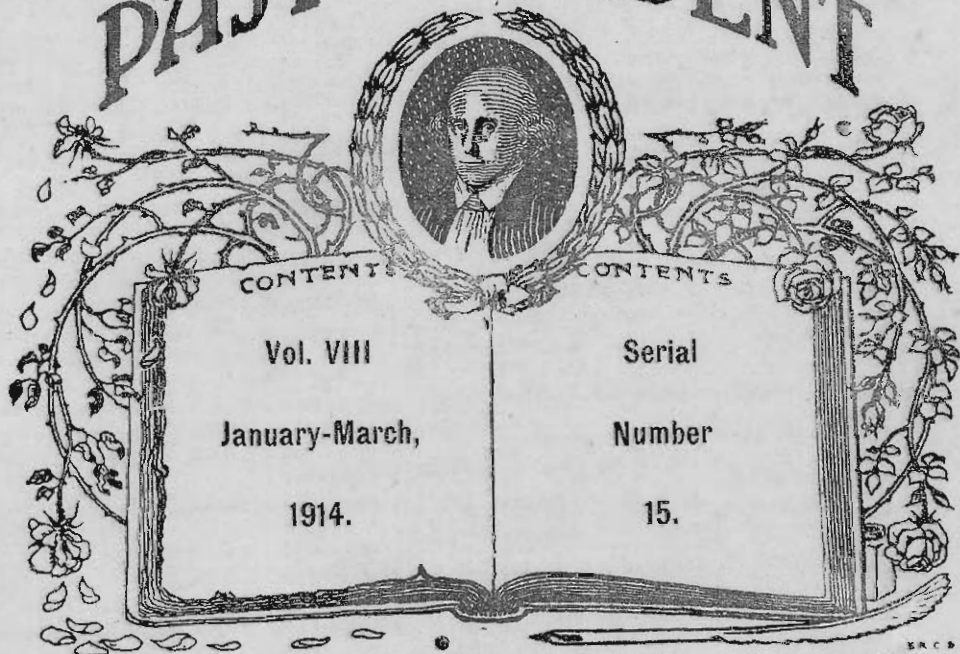
To give a flavour of the journal we have included here the cover page, the contents' list, the first part of the Mayor's court article and then pages 14-15 mentioning Hampton.

Remember that this relates to a time when New Years Day was on March 25 – a situation which lasted till 1752.

Adrian Fletcher  
May 2011



# BENGAL PAST & PRESENT



JOURNAL OF THE CALCUTTA HISTORICAL SOCIETY

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### CORRIGENDA.

IN LETTER PRESS OF ILLUSTRATION NO. 15, FOR 1592 *read* 1526.

# Some Records Relative to the Mayor's Court.

## INTRODUCTION.

IN 1693, when the Company in London were devising large schemes for their young settlement at Calcutta, they proposed the establishment of a Court of Judicature which would take cognisance of disputes between British subjects residing at that place. On April 10th 1693, they wrote.

"24. We send you with this a short extract of two or three Paragraphs out of our Generall Letter to Bombay and Suratt, by which you will see that we have taken as much care as we can to prevent the irregularities of such as sail upon our Country permissive ships from Suratt, &c. And now it will be your part to erect such a Judicature in Bengall after the manner you have seen practised at Fort St. George to judge and punish by fines to the Company and otherwise such as shall offend hereafter, wherein we doubt not, but you will proceed with exact justice and great moderation, which is always to be used to the first offenders, besides if you find any refractory you may reduce them to obedience by denying them the priviledge of our passes and dusticks [dustaks] &c.<sup>1</sup>

To this the President and Council at Calcutta replied on December 14th, 1694<sup>2</sup> :—

"By the death of Agent Charnock your Honours are disappointed in your Intentions and Expectation of having a Court of Judicature erected in Bengall and for that reason we presume the Hon'ble President and Council of Fort St. George took the Commission out of your Honours Packett before it came to us, our Endeavours have been fruitless hitherto in procuring the Nabobs and Duans consents for a firm settlement in this place and we have no hopes of a grant for it so long as this Duan continues."

With this view the Directors concurred, for on May 14th, 1696, they write : "Till the Company be settled by Act of Parliament, we think it not very materiall to resettle a Judicature in Bengall, since you may send to the Fort,<sup>3</sup> or send thither for a warrant or bring up any refractory or disorderly persons."

<sup>1</sup> *Court's Letter Book*. Vol. IX, p. 257. The Surat letter referred to above is dated 1 May 1693, and the paragraphs mentioned are Nos. 2 and 3.

<sup>2</sup> Bengal Original Consultations (India Office Records), Vol. L. No. 5949.

<sup>3</sup> Fort St. George, Madras.

In 1726, however, the Company again moved in the matter of establishing a Court at Calcutta, and it is with their petition of February 1, 1727 the following series of records commence. These papers were copied at my request by Miss L. Anstey from originals in the Record Department of the India Office.

The Rev. J. Long, in the introduction to his volume of *Selections from the Unpublished Records of Government, 1748-67*, tells us that the records of the Mayor's Court "are deposited with the High Court, but unfortunately all records since 1749 have been lost." He gives us the following account of the expenses of the Mayor's Court in 1753.

	Rs.	A.	P.
To paid the trustees of the charity school for apartments for the records for 4 months at Arcot Rs. 30 per month	...	...	...
	120	0	0
Batta 8 per cent.	...	...	...
	9	9	6
	129	9	6
To paid for a piece of red taffaty for gowns for the Alderman	...	12	15 3
To paid by order of court for copying a large book for the court's use	...	64	12 9
To paid for wax cloth	...	1	0 6
Velvet for the chair and cushion and making	...	37	4 3

In August 1748 Madras was restored by the French to the English Company. The Company were advised by the Solicitor General and their own Standing-Counsel, that the capture of Madras by the French had terminated the powers and authorities granted by the Charter of 1723. As a new Charter was thus rendered necessary for Madras, the Directors thought that they might make use of this occasion, and, while surrendering the charters for Bengal and Bombay, to obtain charters embodying various improvements of which experience had proved the need. The principal addition made was the establishment of Commissioners to serve as a Court of Requests for the recovery of debts not exceeding five pagodas in amount. In their letter accompanying the Charter, the Directors remark: "With respect to criminal proceedings, we have nothing to add to the instructions already given, unless it is, that the Legislature in the last Session made an Act of Parliament for better preventing the horrid crime of murder, several copys of which we send you herewith. So, if the Commissioners of Oyer and Terminer think it may be a means to prevent or detur persons from committing that horrid crime, they may, in case of conviction, proceed to judgment and execution, and disposal of the body in the manner that the Act directs."

The Charters of the Mayor's Court thus established four judicatures in Calcutta exercising jurisdiction from the English Crown over British subjects, natives in their employment, and persons who voluntarily placed themselves under the Courts:—

1. The President and Council (in 1723 "five of the Council"; 1753 "all the Council") are Justices of the Peace and Commissioners of Oyer and Terminer and Gaol delivery, and hold Quarter-Sessions.

2. The Mayor's Court.
3. The President and Council, a Court of Record, to hear appeals from the Mayor's Court.
4. After 1753, twelve Commissioners to form a Court of Requests.

Turning to the subject of the law administered by these Courts, it may be said at once that it was the law of England as it stood at the introduction of each of the Charters, *i.e.*, 1723 to 1753, it was the law of England as it stood in the year 1723, and from 1753 onward as the same law stood in 1753. Impey at his Impeachment stated: "Among the records I found the instructions sent out by the Court of Directors with that Charter (the Charter 1753), and expecting, as I really procured, great information from them, ordered them to be copied. These instructions direct the new Court how to proceed against prisoners not understanding English, tells what crimes are misdemeanours, what simple felonies, what within clergy, what capital, and all the distinctions on that head; what punishments are to be inflicted, amongst which transportation is particularised; how to proceed in each case; and gives precedents of indictments for each crime, the oath for an interpreter where the prisoner does not understand English, directions how to proceed when any Portuguese, Gentoo, or native of India, not born of British parents, happens to be prosecuted for any capital offence, which the instructions say 'will probably often happen'; they are told that stealing goods above the value of forty shillings out of a dwelling-house, above five shillings privately out of a shop or warehouse, or stable, and from every person above five shillings is capital: they are told that the jury may mitigate the sum so as to make the offence clergyable, and the clerk of the peace is directed to mark the judgment[s] so mitigated to distinguish them. They give precedents of indictments for all these crimes, and add indictments for burglaries, highway robberies, and horse-stealing, as cases 'likely to happen.' In a marginal note they are told in cases where any Act of Parliament makes a crime felony, which was not so at common law, the indictment must conclude 'against the form of the Statute.' They are directed 'to enlarge on His Majesty's' princely goodness, who on the humble application of Honourable Company, has thought fit to extend his care and the benefit of his laws to his most distant subjects in the British settlements in the East Indies. This the Directors desire 'may be done the first time the Commission is put into execution'."<sup>1</sup>

Sir Gilbert Elliott<sup>2</sup> contended that Sir Elijah Impey was mistaken as to the date of these instructions, and asserted that they were in fact sent out with the Charter of 1723. No evidence is forthcoming to support Sir Gilbert's assertion, and, on the other hand, in a volume of Early Parliamentary Papers (printed)

<sup>1</sup> Sir J. F. Stephen: *The Story of Nuncomar and the Impeachment of Sir Elijah Impey*. Vol. II pp. 20-1. Sir J. F. Stephen did not "attempt to verify this statement of Impey's."

<sup>2</sup> The Mover of Impey's impeachment; afterwards the first Lord Minto.

CUT TO P 14

## IV.

Bengal Public Consultations,  
Range, 1, Vol. 6.

Fort William August 1727.

*(Extract from Consultation of Monday, 28 August, 1727).*

The Box containing the new Charter &ca., Law Books come Per Ship  
Charter &ca. Law Books Bridgwater being come a shore was now open'd which  
received, contained the following Particulars vizt.

King George's Royal Charter.  
Statutes at large, five Vols.  
Dalton's Country Justice.  
Hawkins's Plea of the Crown.  
Abridgment of the Statutes, 6 Vols.  
Officium Clerici pacis.  
Modern Justice.  
Hale's Pleas of the Crown.  
Blackerby's Justice.  
Godolphin's Legacy.  
Lex Testamentaria.  
Praxis Cancellaria, two Vols.  
Cursus Cancellaria.  
Practicall Register in Chancery.  
Copy of the new Charter.

The Honble Company's Genl. Letter, dated 17th February 1726-7 relating  
Mayor & Aldermen to the Charter was now read a second time and very  
chosen, seriously considered in all its Paragraphs.

WHEREAS Mr. John Sainsbury Lloyd who is nominated in the Charter to  
be Mayor and several of the Aldermen therein named are absent, Pursuant to  
the tenour of the Charter we have appointed the following Persons to be the  
modern Mayor Sheriff and Aldermen Vizt.

Charles Hampton Esqr. Mayor

Mr. Thomas Braddyll Sheriff

Messrs. John Bonkett

Thomas Coales

Thomas Cooke

Henry Harnett

Robert Frankland

James Nevile

William Bruce

Matthew Wesley

Geo: Mandeville

} Aldermen.

V.

Bengal Public Consultations, Fort William October 1728.  
Range 1, Vol. 6.

*Extract from Consultation of Thursday, 3 October 1728.*

The Mayor's Court representing to Us that they are at the Monthly  
Expence of one hundred five Rupees and eight Anaes  
Mayor's Court its Ex- for Peons and other necessary Servants to attend said  
pence to be paid by the Zemindar. Court; and having no other way to support the said  
Charges (All Fines &ca. being by Order of this Board appropriated to the  
Honble. Company's Use).

AGREED<sup>1</sup> thereof, that the Expence of Peons and proper Officers to  
attend said Court be disbursed by the Zemindar, and brought into his Monthly  
Account.

VI.

Bengal Public Consultations, Fort William January 1728-9.  
Range 1, Vol. 6.

*Extract of Consultation of Thursday, 2nd January, 1728-9.*

Ambassador's House to There being wanting a proper Place to hold the  
be the Town Hall. Mayor's Court, as well as a Court of Oyer and Termi-  
ner, and to make a Town Gaol,

AGREED, That the Ambassador's House and Compound be appropriated  
Corporation to be assess- for that Service; and that a Tax be levied on the  
ed. Inhabitants of this Place to pay the same.

VII.

Coast and Bay Abstracts of  
Letters Received, Vol. 2.

*Extract of Fort William General Letter, dated 5th December 1727.*

Para. 4. Thankful for his Majesty's Charter for Establishing a Corpora-  
tion in Calcutta, which they publicly read with great Demonstrations of Joy  
under Triple Discharge of the Military and Great Guns, the Mayor's Court  
instituted, Aldermen a little puzzled at present in their Proceedings, but a little  
Practice will soon make every thing easy and believe every Man will act the  
honest part, they take it that their Court is not to be lookt upon as a Court of  
Common Laws but a Court of Equity.

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<sup>1</sup> (Sic) ? therefore.