CHAPTER X

STATE CONTROL.

The discussion of this Chapter will solely contain the control exercised by the State authority on the Panchayat. But in every democratic country we are confronted with the three types of control: Legislative, Executive and Judicial.

LEGISLATIVE CONTROL.

The use of Legislative control over the local authorities is beyond dispute when the constitution of a country does not lay down any specific principle relating to the composition, functions and abolition of the local units. It is mostly found that the powers and duties of the local units are prescribed by the State Legislature in a federation and by the Central Legislature in a unitary form of government. In the Unitary form of Government in Great Britain the local units are the creatures of the Central Parliament as the Act of 1894 established the Parish Meeting and the Parish Council—the basic organs of the rural Government in Great Britain. The foundation of English system is that local authorities are artificial persons, corporations created either by charter of the crown or by statute, to exercise certain defined duties and powers. It has also been stated that 'local authorities do not possess the inherent and independent power to frame their constitution or determine the scope and character of their functions. The general authority of local governing bodies does not issue independently out of their own will; but it is derived authority, derived from Parliament. The structure of


2. Ibid, P-190.
local authorities, the electorate, the size and term of the
council, areas, committee organisation - the fundamental
principles of these are imposed upon them, sometimes as a
command, and sometimes as permission within limits established
by statute. Finally, what the local authorities must do, and what
they may do, what they must spend, and what they may
spend, these vital things are dependent upon the specific
authorization of Parliament.' Thus in Great Britain the
Legislative central over the local units is complete. It is
also absolute in the absence of a judicial review of the
Central Acts of Parliament. Legislative central over the
local units in France is more transparent as the 'French
local authorities are in a real sense organs of the state;
they are a part of the hierarchy of administration
with special duties.' A study of the constitution of France shows
that the Unicty Government of France is divided into a
number of departments from the point of view of the
administrative convenience. Each department is put under the
charge of a Prefect appointed by the President of the
Republic on the recommendation of the Minister for the
Interior. The Prefect enforces the national laws and
decrees and acts as an agent of the Central Government on
matters such as education, sanitation, agriculture and so
on. The department is further divided into Arrondissements.
Each Arrondissement is put under the charge of a Sub-prefect
appointed by the prefect. The sub-Prefect performs exactly
the same functions as the Prefect does in his jurisdiction.
Each Arrondissement is further divided into communes. Each
commune has an elected municipal council which is known as

1. Ibid, P-389.
2. Brian Chapman - Introduction to French Local Government, 1953,
P-27.
Conseil Municipal. The executive head of the commune is the
Meyer who is elected by the Communal council.
Prof. C. F. Strong observes that France 'remained, in
fact, the most perfect example of political unitarianism.
All the powers of Government resided in the legislative
and executive organs at Paris. There were no subsidiary
sovereign bodies. France was divided into départements and
communes, arrondissements and cantons (the last two being
merely electoral areas), but their form and extent
depended entirely upon statute law. There was no local
authority and no territorial division that the Central
Government could not obliterare whenever it chose. The
powers of all local officers were defined by rational
law and they were supervised in their actions by an envoy
of the Central Government called a Prefect.1

In the U.S.A. which is known as the perfect perfect
federation in the world a county exists entirely for the
performance of State functions. It is simply a mere or less
convenient area for doing certain things of a governmental
or 'political character' which the state, if there were no
counties would have to do directly. In the aforesaid
country the powers and duties of the local units are, as
it is found, prescribed by the State Legislature and
may be widened or narrowed at its discretion. When the
State constitution gives may be taken away and, unless the
State constitution forbids, there is nothing to prevent the
complete abolition of such authorities and the assumption
of their duties by the State Government. 2 This was the

2. Lane W.Danaster-Government in Rural America,1952 P.73.
3. Ibid, P-72.
The generally accepted view of the status of municipal corporations at the turn of the century, with the possible exception of Missouri, California, Washington and Minnesota, which had, they thought, inaugurated a new era of freedom by the adoption of constitutional provisions for municipal home rule. But even the independence of the local units of the home rule states is also subject to state regulation and control in the U.S.A. Mr. Kneir observes: "It is probably true that home rule cities enjoy the least advantage in the financial field. In common with other states, home rule states have imposed drastic debt and property tax limitations and the courts have generally held home rule cities subject to the limitations..... home rule cities in Ohio have been held subject to state regulation with respect to both tax limits and debt limits, and this regulation has gone as far as limiting the purposes of debts, their methods of contracting and payment, and even to regulating the procedure of ordinary municipal purchases." 

In India the constitution provides that the state shall take steps to organise village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as Units of Self-Government. But the constitution is entirely silent about the abolition of village Panchayats. Thus, in a nutshell, the constitution's functions and abolition of the local units do entirely depend on the option of the State Legislature. Under the system of the local units are to perform only the delegated functions of the State Legislature like the local units of the U.S.A.

2. Ibid, P-102.
3. Article 40 of the Constitution of India.
We have little resistance against the use of legislative central when the legislature is democratically constituted, but too much of the said central over the local units means the negation of the Principle of local autonomy. The present Panchayat would have functioned better if it would emerge from the spontaneous will of the people of India; but in the place of the Panchayat which emerged out of spontaneous will of the local people in the past a new statutory Panchayat has been created all over India by the respective Acts of different State Legislatures. This is nothing but an imposition of new system, a new administration and a new regime upon the people. Legislative central of the local units was resented in some instances by the people in the U.S.A. and they demanded constitutional home rule as a safeguard against the tyranny of the State Legislature.

As Mr. Kneir observes: 'the regulation by legislative Act of the relationship between cities and the State has not been satisfactory. At one time Wisconsin cities and villages, as in other states, were at the mercy of the State Government. The legislature interfered constantly with municipal government and administration, and at every session there was a flood of local, special and general laws limiting the powers of municipal authorities, imposing new duties on them, and laying further burdens on their finances. In some states these abuses became so unbearable that there arose a popular movement to restrain legislatures on the one hand and to enlarge the powers of municipalities on the other.' The said movement might emerge in India as well as in West Bengal too to restrain the eff and en

interference of the State legislature with the independence of the local authorities. As a result of the growth of legislative central in the U.S.A. the doctrine of the inherent right of local self-government which had flourished in colonial times and in some of the frontier States seemed entirely dead. Mr. Kneir goes on to say that 'the baneful result of this legislative central is evident. Government by remote central is seldom satisfactory government. And when the government agency is a legislature in which the cities have but minority representation, its evils grew like the green bay tree. By legislative fiat the names of towns have been fixed, gas works established, and franchises granted. Localities could hardly call their souls their own, as tight were the fetters in which legislatures held them.'

The champions of administrative central control over the local units are of opinion that the central departments which are free of local prejudices possess wide and lengthy experience and in technical matters including finance they have abundant central and command by virtue of which they easily avail and make use of the services of the best experts. Owing to the aforesaid advantages enjoyed by the central departments it is usual and at the same time it is desirable that the central departments should have control over the local units. The study of history of India shows that there was always some kind of administrative central used by the King or by his subordinates during the days of Kingship.

1. Ibid, p. 91.
2. Ibid, pp. 91-92.
or monarchical form of government in both the Hindu and the Muslim periods. But Dr. Radhakunud Mukherjee, an eminent author on ancient history, observes that 'in ancient India the king was the head of the State, but not of the society. He had a place in the social hierarchy, but it was not the highest place. As the symbol of the state he appeared to the people like a remote abstraction with no direct touch with their daily life which was governed by the social organisation. The communal institutions, guilds, and local bodies have an independent origin and growth out of fluid, and inchoate conditions of tribal life and organisation. When the State comes to supervene or be superimposed upon these, it has to treat with them more or less on terms of equality and recognise their pre-existing rights by conventions and agreements which operate as charters regulating their mutual relations. Thus, the varied interests of communal life, such as administrative, judicial, civic, commercial, or industrial, are assured by the voluntary co-operation of independent and integral units of a common body politic.' The utmost desire of Dr. Mukherjee to demonstrate the independent rights of social institutions does not totally negate the King's interference on reasonable occasions.

The abundance of Central control over the local units in England is one of the highlights of the system in the country. In the West the local Government in modern times has been a creation of the Central Government and there the predominant tendency has been towards a progressive extension of State interference and state control so as to bring within its limits all

the main departments of social life and national activity until the ideal is attained of a complete nationalisation or socialisation of all the means and processes of life itself. The American system of local government shows that there the county was created to act for the state because such a decentralisation of administration was thought convenient, wise, or expedient. Thus, under this system the local units are but agents of the state with little or no discretion as to the selection of the duties which they are to do. Mr. Finer observes that in Great Britain there are at least twelve methods by which the administrative central over the local units can be exercised:

1. The Central department has a general tutelary power over certain services. By tutelary power he means that the central departments are made responsible by statute for the efficiency of the service coming within their jurisdiction. For example, the Ministry of Health was established for the purpose of promoting the health of the people throughout England and Wales; the Home office, in regard to police administration; the Ministry of Transport for the purpose of improving the means of, and facilities for, locomotion and transport. But in West Bengal as well as in India too as the local units are granted the autonomy in some respects the latter, and not the Central or State Department as in England, are entirely made responsible for the efficiency of the same. The U.S.A. which favours decentralisation of administration like India is more akin to the latter than to the type as observed in

1. Ibid, P-4.
England and thus the general tutelary powers of the State
departments are practically unknown to them. France and
the U.S.S.R. on the other hand, which stand for
centralisation of administration resemble more or less
the British Type of administration in this respect.
2) Besides, the aforesaid general tutelary functions
Central Departments are responsible for applying the
laws by rules, orders and Regulations in England. In
our West Bengal too the State Government has been autho­
rised by the Panchayat Acts (The West Bengal Panchayat
Act, 1907 and the West Bengal Zilla Parishad Act,
1969 taken together) to frame rules to carry out the
purposes of the said Acts. The framing of Rules and
Regulations by the State Government is also to be
noticed in the U.S.A. As Mr. Kneir observes the State
Department may issue rules and regulations for the
administration of local departments.
(3) England maintains special advisory organisations
according to which the departments in Whitehall
have established a large number of bodies for research
and consultation on the subjects they administer; and
these are of incalculable importance to local authorities,
as they make available for them the scientific results
attained by specialists in particular fields, or policies
enabling the greatest common agreement among otherwise
diverse interests. But these types of advisory bodies
are of recent origin in West Bengal as well as in India.

As for instance, at the Block Level Agricultural Extension

1. The subjects on which the State Government has been empow­
ered to make rules are discussed in details in Secs. 120 of
the W.B. Panchayat Act, 1937 and secs. 112 & 113 of the W.B.
2. Charles M. Kneir & Guy Fox - Readings in Municipal
Government and Administration, 1951, P-147.
officers have been appointed to guide and advise the
Panchayats in Agricultural production and at the
village level workers have been appointed
to perform the said functions. Besides, at the Block
level there will be Extension officers for Animal
Husbandry, Co-operation, Panchayats, Rural Industries,
Rural Engineering (overseer), Social Education and
Programme for women and Children and so on to advise the
Panchayats as well as the people in different aspects
of their problems. The provisions for advice, information
and technical aid have also found their reams in the local
government system of the U.S.A. Mr. Knaer observes that
"the State can furnish Professional advice and
information to local officials. This assistance may depend
entirely upon the goodwill and confidence built up
between the local officials and State Departments. In
addition to that 'the State may provide laboratory
facilities and special professional equipment and
techniques not possible for the individual community.

(4) The Central Department in England has the authority
to grant additional powers to the local Units through
issuance of orders in the nature of 'Provisional' and
'special orders, and private Bills.' The present "east
Bengal Panchayat Act 1957 in laying down three types of
functions of the Gram Panchayat has provided that
'nothing in sections 31, 32 and 33 shall be deemed to
impose any duty or confer any power on the Gram Panchayat

1. Community Development Programme (Third Five Year plan)
1961, Published by the Ministry of Community Development
and Co-operation, P-11.
2. Charles M. Knaer and Guy fox - Readings in Municipal
Government and Administration, 1961, P-146-47.
3. Ibid, P-147.
with respect to any matter which is under the direct administrative control of any department of the central or State Government or of any local authority, unless such duty or power has been transferred or delegated to the Gram Panchayat by order of the Central or State Government, or of the local authority, as the case may be. Besides, the assignment of functions to the Gram Panchayat by the State Government as enumerated under section 32 of the Act also depends upon the order of the State Government. In the West Bengal Zilla Parishads Act, 1963 it is found that 'a Zilla Parishad may be vested by the State Government with such powers under any local or special Act as the State Government may think fit.' Furthermore, 'a Zilla Parishad shall exercise such other powers, perform such other functions of discharge such other duties as the State Government may, by general or special order, direct.' Exactly, the same provisions are also found to exist in the case of the allotment of functions to the Anchalik Parishad by the State Government. The control of the Local Units through the weapon of the issuance of orders by the State Government is not also unknown to the U.S.A. as the State department in that country has been authorised to issue orders concerning special situations representing a more direct and specific exercise of authority than more general rules and regulations.'

(5) The power of approval of the central department in relation to alteration of areas, administrative schemes, byelaws, fees and tolls is observed in the local government system of Great Britain. Regarding the

the alteration of areas of the local units in West Bengal, the State Government has been given the final authority as both West Bengal Zilla Parishads and Panchayat Acts have clearly laid down that the areas and jurisdiction of the Zilla Parishads, Anchalik Parishads, Anchal Panchayats, Gram Panchayats or Gram Sabhas will be determined by the State Government.

Though both the Acts have not fully analysed the powers of the State Government on the question of alteration of areas of the Panchayat Units, it is implicit that the authority which has been entrusted with the power of delimiting the areas is the authority to alter the aforesaid areas also. Moreover, sec. 5 subsec.(1) of the West Bengal Panchayat Act, 1957 has clearly laid down the power of the State Government regarding the alteration of areas of the Gram Sabhas. The section reads thus: "The State Government may, after consulting the views of the Gram Sabhas or Sabhas concerned, by notification -

(a) exclude from the local limits of the jurisdiction of a Gram Sabha any area comprised therein; or
(b) include within the local limits of the jurisdiction of a Gram Sabha any area in the vicinity thereof; or
(c) divide the area of any Gram Sabha so as to constitute two or more Gram Sabhas; or
(d) unite the areas of two or more Gram Sabhas so as to constitute a single Gram Sabha; or
(e) otherwise alter or revise the limits of any Gram Sabha."

Not only the fixation and alteration of area
but the nomenclature which is to be used by a
Gram Sabha or an Anchal Panchayat is also determined
by the State Government.

The approval of the State Government relating to
administrative schemes undertaken by the Panchayat is
also required in some cases as it is observed in the
local Government system of Great Britain. A perusal
of the West Bengal Zilla Parishad Act will bring
out the following truth that 'a Zilla Parishad may,
with the previous sanction of the State Government,
acquire land under the provisions of any law for the
time being in force for carrying out the purposes of
this Act. Besides, a Zilla Parishad shall have power
to 'contribute, with the approval of the State Government,
such sum or sums as it may decide, towards the cost of
water supply or anti-epidemic measures undertaken by
the Commissioners of a Municipality within the district,'
Moreover, 'a Zilla Parishad may divert, discontinue
or close temporarily any road which is under its
control and management or is vested in it, and may,
with the approval of the State Government close any
such road permanently.' Exactly the same provisions
without any alteration are also found to exist in the case
of the Anchalik Parishad. This type of governmental
approval prior to the execution of some schemes has not
been provided for in the West Bengal Panchayat Act, 1957
as the powers of both the Gram and Anchal Panchayats

1. Sec. 17, Sub-ssec.(P) Ibid. 2. Sec. 18, Sub-ssec (1),
Cl.(C) Ibid. 3. Sec. 22 Ibid.
are limited in this context in comparison with the Anchalik Parishad and the Zilla Parishad. Just as in England the approval of the central department is required in the case of bye-laws made by the local units so also in West Bengal a Zilla Parishad or an Anchalik Parishad may, with the previous approval of the State Government, make bye-laws for carrying out the purposes of this Act.

In Great Britain though the budget of the local units does not require the approval of the Central Department, the imposition of fees and tolls requires the approval of the Central Department. In our West Bengal though the budgets of lower organs of the Panchayati structure are approved by the immediate higher organs, the budget of the Zilla Parishad - the highest organ in the said structure - is approved by the State Government. Not only West Bengal but the continental countries of Europe also have the same characteristic. It has been observed that "approval of budgets or estimates by a superior authority is a very general requirement on the European continent. In France the prefect - or by delegation, the Sub-Prefect regulates the budgets of every commune within his department and may even exercise the right of Inscription of office which means the insertion

2. The approvals of the budget estimates of different organs of the Panchayati structure have been fully dealt with in the Chapter on 'Panchayati Finance'.
in a local budget of an estimate for some obligatory functions which the local authority has omitted, this sometimes involving further local taxation. The budgets of the largest towns require the approval of the President of the Republic on the proposition of the Minister of the Interior."

"In Belgium and Holland the communal budgets are subject to the control of the provincial authorities. In the Scandinavian countries and Germany the communal budgets, although they may be required to be submitted to the superior authority, do not as a rule need its approval except, in some cases, for the imposition of new taxes. Strict control including inscription of office exists in Holland, Poland, Hungary, Turkey and Japan."

"It is also observed that the central department of England controls the local units through the prescription of qualifications and tenure of certain officials appointed by the local units. In the U.S.A. nominations to certain positions are subject to acceptance by the State before the local authorities may make the actual appointments. Moreover, a state civil service system may conduct a merit system for municipalities. Occasionally, authority is found for the

appointment or removal of local officials by the State.

In West Bengal the Executive Officer of the Zilla Parishad is appointed by the State Government. Though the Zilla Parishad has been authorised by the State Government under the Act to appoint such other officers and employees as may be required and may fix the salaries to be paid to the persons so appointed, it has been provided that 'no post carrying a monthly salary of rupees three hundred and one or more shall be created or abolished by the Zilla Parishad without the approval of the State Government.'

In the establishment of the Anchalik Parishad the Block Development Officer—an appointee of the State Government is the ex-officio Chief Executive Officer of the Anchalik Parishad. Moreover, an Anchalik Parishad may appoint such other officers and employees as may be required by it and may fix the salaries to be paid to the persons so appointed provided that no post carrying a monthly salary of rupees two hundred or more shall be created or abolished by the Anchalik Parishad without the approval of the Commissioner.' In contrast with the British System of control over the officials of the local units where the central department only lays down the qualifications and tenure of certain officials to be appointed by the local units, the West Bengal and the U.S. systems not only empower their respective State

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1. Ibid, 2. Sec.26 sub sec.(1) of the U.S.Zilla Parishads Act, 1963. 3. Sub-sec.(3) 1st proviso Ibid.
4. Sec.74, Sub-sec.(1) Ibid. 5. Sub-sec.(2) Ibid.
Governments to lay down the qualifications and tenure of certain officials but also to appoint the personnel in some cases finally.

(7) In Great Britain the Central Government has a power of action in default by virtue of which the central authority has power in some cases to act and to charge the defaulting authority with the expenses incurred if a local authority does not do what the law says it must do. The U.S. system of local government has provided that in unusual circumstances the State may assume local functions either in part or in their entirety. In West Bengal exactly more or less the same provisions are found to exist in the Panchayat Act. The Act has provided that 'if at any time it appears to the prescribed authority that an Anchal Panchayat or a Gram Panchayat has made default in performing any duty imposed on it by or under this or any other Act or any rule, regulation or by-law framed thereunder it may, by an order in writing fix a time for the performance of that duty. It has also proved that 'if such duty is not performed within the period so fixed, the prescribed authority may appoint a person to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the said persons from the

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2. Charles K.Kneir & Guy Fox Readings in Municipal Government and Administration, 1961, P-146. 3. District Panchayat Officer is the prescribed authority in this case (vide/Panchayat Executive instructions, Part-I, 1960, Phil) 4. Sec.66 sub-sec.(1) of the W.P. Panchayat Act, 1967.
Anchal Panchayat fund or the Gram Panchayat fund, as the case may be,

The drastic means of Government control over the local units is the reconstitution or supersession which is totally unknown to England as well as to the U.S.A. Section 67 of the West Bengal Panchayat Act, 1957 has empowered the State Government to reconstitute or supersede a Gram or an Anchal Panchayat on several charges. The section reads thus:

"If the State Government is satisfied on the report of the prescribed authority that an Anchal Panchayat or a Gram Panchayat is not competent to perform, or is persistently making default in performing, the duties imposed on it by or under any law, or is exceeding or abusing its powers, it may, by notification direct (a) that the Gram Panchayat or the Anchal Panchayat as the case may be, be reconstituted with effect from a specified date; or (b) that the Gram Panchayat or the Anchal Panchayat, as the case may be, be superseded for a specified period, not exceeding one year".

Thus under the foregoing provisions of the West Bengal Panchayat Act a Gram Panchayat or an Anchal Panchayat may either be reconstituted or superseded by the order of the State Government. In the case of reconstitution of both the Gram and Anchal Panchayats

1. Sub-sec (2) Ibid.
2. The prescribed authority is the Dist. Panchayat Officer in this case. (Vide Panchayat Executive Instructions, part-1, 1960, P-113.)
immediate steps shall always be taken for holding fresh elections of the said organs by the prescribed authority. When a Gram Panchayat or an Anchal Panchayat is superseded the following consequences would generally ensue: (1) all members of the Gram or the Anchal Panchayat, as the case may be, shall vacate their offices; (ii) all powers of the Gram or the Anchal Panchayat, as the case may be, shall be performed by such authority, persons or persons as may be prescribed; (iii) all property belonging to the Gram or the Anchal Panchayat shall be managed and looked into by such authority, person or persons as may be prescribed.

The supersession of a Gram or an Anchal Panchayat is generally made for one year and on the expiration of the said period the State Government may either further extend the period of supersession not exceeding one year or reconstitute the Gram or the Anchal Panchayat, as the case may be, by fresh elections. In the West Bengal Zilla Parishads Act, 1963 there is no such provision for reconstitution of the Zilla Parishad or the Anchalik Parishad as the same is found in the West Bengal Panchayat Act, 1957. The course which is open to punish a recalcitrant Zilla Parishad or an Anchalik Parishad.

1. Sec. 68, Sub-sec.(1) of the W.B.Panchayat Act, 1957. The prescribed authority is the District Panchayat Officer in such case. (vide/Panchayat Executive instructions, Part-I, 1960, P-113.)
2. Sec. 68, Sub-sec.(2) of the W.B.Panchayat Act, 1957.
3. Sub-sec.(d) Ibid.
Parishad is to supersede the same for two years.

The grounds for supersession and the consequences of the same have been discussed in the Act. Section 103 of the Act lays down that if, in the opinion of the State Government, a Zilla Parishad or an Anchalik Parishad (a) has shown its incompetence to perform or has persistently made default in the performance of the duties or exercise of the functions imposed on it by or under this Act or by any other law, or (b) has exceeded or abused its powers, the State Government may by an order to be published in the official gazette stating the reasons therefore supersede the Zilla Parishad or the Anchalik Parishad, as the case may be, for such period, not exceeding the maximum period of two years, as may be specified in the order.

Foot note - When an order for supersession of the Zilla Parishad or the Anchalik Parishad is passed the following consequences would generally ensue:

(a) all the members and associate members of the Zilla Parishad or the Anchalik Parishad, as the case may be, and all the members of the Standing Committee thereof, shall vacate their offices; (b) all the powers, functions, and duties of the Zilla Parishad or the Anchalik Parishad or any standing committee thereof shall be exercised by the Administrator appointed by the State Government in this behalf. The State Government, however, reserves the right to extend or modify the period of supersession if the same is considered to be necessary.

But the Act has offered an opportunity to the Zilla Parishad or the Anchalik Parishad to make representation against the order of supersession prior to its implementation, (vide secs. 107, 108, and 109 of the W.B. Zilla Parishads Act, 1963).

passed by the Panchayat is also a novel weapon to control the Panchayat which practically is absent in England and in the U.S.A.

Evidently, the system of supersession is introduced as a checking valve against the recklessness and willful neglect of statutory duties by the local authority. The weapon of supersession compels a local authority to do its rightful duty and thereby it makes such authority to move in the right path and in the right direction.

In our West Bengal, a Gram Panchayat or an Anchal Panchayat is generally superseded if such authority is not competent to perform or is persistently making default in the performance of its allotted duties or is exceeding or abusing its powers.

Foot note: The supersession of Gouri Anchal Panchayat in P.S. Raiganj, Pt. West Dinajpur under the order of the Governor dated 10th September, 1963 reveals the grounds under which an Anchal Panchayat may be superseded. The following were the grounds as set forth by the District Magistrate:

1) the action of the Anchal Pradhan was highly irregular and amounted to temporary embezzlement of funds and falsification of records; (2) the position regarding the collection of dues by the said Anchal Panchayat was extremely unsatisfactory; (3) certain activities of the Anchal amounted to favouritism at the expense of public funds in violation of government orders and statutory Rules; (4) the Sradhan of the said Anchal also violated Rule 3 of the Account and Audit Rules of Gram and Anchal Panchayats in retaining in his personal capacity sums in excess of Rs. 100; (5) the policy of taxation followed by the said Anchal was highly unjust and inequitable. Persons belonging to the party of the Anchal Pradhan were undertaxed and those not belonging to the party were over taxed (vide Calcutta Gazette, Extraordinary, Dec. 16, 1963.)
The supersession of a Gram or an Anchal Panchayat on the said grounds save and except of its excess of jurisdiction may be always welcome. The supersession of a Gram or an Anchal Panchayat on the ground of its excess of jurisdiction can never be tolerated as if such excess of jurisdiction does definitely lead to the wellbeing of the local people. Moreover, the substitution of tutelary powers by the executive department of the Government in place of the vigorous method of reconstitution and supersession might, perhaps, serve our purpose better. Great Britain has experimented with the aforesaid tutelary powers by virtue of which "the central departments are made responsible by statute for the efficiency of the service coming within their jurisdiction." It is peculiar to observe that in spite of so centralised an administration, England has not invoked the weapon of supersession to mend the services of the local units.

All types of loans incurred by the local authorities in England require the authorisation of the Central Department except where loan powers of the local authorities have been obtained direct from Parliament. In England there is a government organisation called the Public Works Loans Board which will lend money to the smaller authorities, but the larger cities obtain theirs by bond issued to the public or some similar method.

1. Sec. ante.
Similar control over the borrowing by local authorities is in force in most European countries, but frequently, in addition to sanction by the superior authorities, a referendum to the local electors is also required.

In the U.S.A. 'the granting of loans by the State to the municipality may contribute to the sources of authority exercised. The conditions of the loan often involve administrative control of local policies.' In the West Bengal Panchayat Act, 1957, only the Anchal Panchayat has been given the power to borrow money but the State Government can impose 'the conditions subject to which an Anchal Panchayat may borrow money.' Under the West Bengal Zilla parishads Act, 1963 both the Zilla Parishad and the Anchalik parishad can either incur loan from the Central or the State Government or from the public on security of their assets but the rules regarding the raising of such loans might be always framed by the State Government.

(9) It has been observed in England that Central Government 'hears appeals in certain forms of administrative action'. If anybody in England is aggrieved by any act of the Local units, he can make an appeal to the Ministry of Health for the same. In the U.S.A. the local officials sometimes have the first determination of administrative matters, but review to state authorities is provided.

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2. Charles M. Kneir & Guy Fox - Readings in Municipal Government and Administration, 1961, P-148
3. Sec.55, Sub-sec.(1) cl.(d) read with sec.120 sub-sec.(2) cl.(c) of the Act.
4. Sec.40, sub-sec.(1), cl.(c) read with sec.85, sub-sec.(1), Cl.(c) and sec.112, sub-sec.(2), Cl.(e) of the Act.
5. Finer - English Local Government, 1950, P-307
6. Ibid, P-32
A provision for tax appeals in an illustration of this device. In our West Bengal such types of appeals against the unjust and inequitable assessment made by the Panchayats are always provided for. The Anchal Panchayat in West Bengal may revise the assessment list on the application of any party aggrieved by its assessment. But if the party in question is not satisfied with the decision of the Anchal Panchayat, he may prefer an appeal to the District Panchayat Officer. The same procedure is adopted in both the cases of assessments made by the Anchalik Parishad and the Zilla Parishad with only the difference that an appeal against the decision for assessment of the Anchalik Parishad may be referred to the District Magistrate and in the case of assessment made by the Zilla Parishad the same may be preferred to the Divisional Commissioner. Like Great Britain, any aggrieved party in West Bengal might prefer an appeal against the decision of a Gram Panchayat before the District Panchayat officer under certain circumstances.

(10) The Central Government’s power to make enquiries and obtain reports from the local areas is a novel device of administrative control found in England. Mr. Finer observes that ‘there are the various Local Inquiries, conducted by Central Officers, when alterations of area, authority for loans or extra powers, are sought.”

2. The W.B.Panchayat Rules,1958, No.112.
Moreover, "the Local Taxation Returns Act, 1860 and 1877, and the Municipal Corporations Act, 1882, require that all local authorities shall annually make returns of receipts and expenditure with such particulars as the central authority prescribes." In the Local Government system of the U.S.A. the furnishing of reports and returns to the State Government is also a necessity. Mr. Kneir observes that "the mere requirement of reporting to a higher agency is in itself a control device, in that it makes the local official aware that other professional people in his own sphere of competency will review his efforts; furthermore, the form of the reports often effects a certain standardization of methods, thus bringing a special influence to bear upon the small town where standards might be very low." In the West Bengal Panchayat Act, 1957 each and every Gram Panchayat in West Bengal is in duty bounds to submit annually a report on the work done during the previous year to the Inspector of Panchayats. In the West Bengal Zilla Parishads Act, 1963 a Zilla Parishad in West Bengal has to supply to the State Government such statistics and periodical reports as the State Government may direct. Moreover, in case of natural calamity such as flood, epidemic or general distress, a Zilla Parishad shall take necessary emergent measures to protect the people from starvation or death and to alleviate distress, and submit periodical reports to the State Government regarding the action taken and recommending other measures to be taken by the State Government."

1. Ibid. 2. Charles M. Kneir and Guy Fox-Readings in Municipal Government and Administration, 1961, p-146.
The audit of accounts of the local authorities conducted by the Central officials is also a weapon of control exercised by the Government department in England. It is observed that 'the accounts of all counties, urban and Rural District and Parishes are annually audited by officials of the Central authority - the district auditors.' The powers of the auditors have also been defined by the Public Health Act of England. It is laid down that 'any auditor in pursuance of this section shall disallow any item contrary to law and surcharge the same on the person making or authorizing the making of the illegal payment, and shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person, or of any sum which ought to have been but is not brought into account by that person, and shall in every such case certify the amount due from such person, and on application by any party aggrieved, shall state in writing the reasons for his decision in respect of such disallowance or surcharge, and also of any allowance which he may have made.'

4. The W.B.Zilla Parishads (Election, constitution and Administration) Rules, 1964, Nos.34.
5. Ibid, No.35.
The application of the method of "surcharge" by the auditors is a healthy check against the extravagance or illegal expenditure made by the local units. Mr. Finer observes: "the person or persons responsible for the illegality are surcharged, that is to say, personally charged, with the amount in question, and liable for the repayment thereof. Hence councillors and officials upon whom the responsibility for illegal expenditure can be fixed are liable in their own pockets for their illegality." Such types of powers to the auditors have also been granted by the West Bengal Zilla Parishads (Election, Constitution and Administration) Rules, 1964. The Rules state: (1) "the account of the Zilla Parishad fund shall be examined and audited by the Examiner of Local Accounts, West Bengal, once a year. (2) In auditing the accounts it shall be the duty of the auditor so see that - (a) the accounts have been kept and are presented in proper form, (b) the particular items of receipts and expenditure are stated in sufficient details, (c) the payments are supported by adequate vouchers and authority, (d) all sums received or which ought to have been received are brought into account, (e) the receipts and expenditures are in all cases such as are authorised by law. (3) The Auditor shall - (a) ascertain the total unpaid liabilities and also whether this can be met out of the Zilla Parishad fund or the Anchalik Parishad Fund, as the case may be when falling due, 1

(b) surcharge moneys not duly accounted for, or loss by negligence upon the person who ought to account for the same or whose negligence or improper conduct has caused the loss and disallow and strike out such payments as are unauthorised by law or competent authority,

(c) verify the cash or imprest balance in the hands of the Chairman or employees of the Zilla Parishad and president or employees of the Anchalik Parishad.

The West Bengal Panchayat Act, 1957 in its section 58 also lays down that 'the accounts of every Anchal Panchayat and every Gram Panchayat shall be audited annually or at shorter intervals, by such agency and in such manner as may be prescribed'. The audit of accounts of both the Gram and Anchal Panchayats is carried on by the Supervisor of Panchayats. Though the method of 'Surcharge' is not adopted in the case of audit of accounts of the Anchal Panchayats and Gram Panchayats, the submission of monthly statement of accounts and statements relating to annual expenditure to the Inspector of Panchayats has been made obligatory on the part of both the Gram and Anchal Panchayats. The countries where 'communal budgets must be submitted for approval, take also a general cognisance of the annual statement of accounts, but do not provide for a complete audit in the case of every local authority. In several countries - e.g. Estonia and Finland - the matter is left as

1 Rules No.101, Sub-rules (1), (2) & (3).
2 No.6 of the West Bengal Anchal and Gram Panchayats (Account and Audit) Rules, 1959.
entirely to the local authorities themselves. In Australia only the State of Victoria, and in Canada only the province of Quebec provided for Government audit. In Holland and Poland an audit service is established by the Unions of towns. In the United States there is no Government Audit."

(12) Last, but not the least method of administrative control exercised in England is the Central Government's power of inspection which is usually coupled with the making or withholding of grants-in-aid. In countries in which grants or subsidies are given by the Central Government to the local authorities, they may be used as a means of control, since the grants can be withheld, if in the opinion of the Central Government, the local authorities are not doing their duty. In West Bengal all the units of the Panchayats from Zilla Parishad at the district level down to the Gram Panchayat at the village level - are provided with Government grants and subsidies, thus it is quite natural that the government will always adopt measures to check the improper use of such grants and subsidies. The method of inspection in West Bengal as we do find in England is such a measure. The West Bengal Panchayat Act, 1957 in its section 64 sub-section

(1) Clause (b) lays down that 'the prescribed authority may at any time inspect or examine or depute any officer of Government to inspect or examine any department of an Anchal Panchayat or a Gram Panchayat or any work in progress under the direction of the Gram Panchayat, Anchal Panchayat or a Joint Committee; and for the purposes of such inspection or examination the Gram Panchayat or the Anchal Panchayat or Joint Committee shall produce any book, record, correspondence, plan or other document, furnish any return, plan, estimate, statement, accounts or statistics etc. The weapon of inspection as a means of administrative control is not only applied in the case of the Gram or the Anchal Panchayat, but it is also made available in the case of both the Anchalik Parishad and the Zilla Parishad. The West Bengal Zilla Parishad Act, 1963 in its section 104 lays down:

"The Commissioner or any other officer not below the rank of a Deputy Collector, authorised by the State Government in this behalf, may at any time -
(a) call for and inspect any document which maybe in the possession of a Zilla Parishad or an Anchalik Parishad;
(b) require a Zilla Parishad or an Anchalik Parishad to furnish such information as he may think necessary;"

1. The prescribed authority in such case is either the District Magistrate or the District Panchayat Officer of the Sub-divisional Magistrate (Vide/Panchayat Executive Instructions, 1960, Part-I, P-111)
(c) inspect the office of a Zilla Parishad or an Anchalik Parishad or any institution maintained by or under the control of a Zilla Parishad or an Anchalik Parishad, and also inspect any records, registers or any other document maintained by such institution.

In the U.S.A. the grants-in-aid to the local authorities is also a kind of financial assistance rendered by the State Conditioned upon the acceptance of certain administrative controls exercised by the State. The method of inspection as a control device is also available in the U.S.A. and it is usually conceived that the receipt of the grants-in-aid by the local authorities has invoked such type of control of the State department. But Mr. Keir observes: 'the fact of inspection serves as a control device is stimulating local officials to achieve professional efficiency. It serves as a means of bringing backward communities up to higher standards through persistent encouragement on the part of the State officials.'

It was observed that though water supply and markets together constituted major items of income in small and large towns in Indonesia, central subsidy provided the most important share in the annual budget of the local councils. The fact that all local governments are so dependent upon the central government for their revenue means an accompanying limitation upon their freedom to spend their revenue.

The dependent financial relationship has been one of the major sources of grievance on the part of regional governments. Taken together with the limited nature of the powers surrendered and with the retention of close official supervision through the person of the kepala daerah, it must obviously affect the ability of the decentralization Plan to secure one of its main objects - the conciliation of regional feeling.

In effect that object has been subordinated to a second major object - the development of the local government system almost as an auxiliary to the old central administrative system for the purpose of providing general government in Indonesia.

One remarkable method of administrative control in West Bengal is the removal of Adhyaksha, Upadhyaksha, Pradhan and upa-Pradhan under certain specified charges which is totally unknown to England. The West Bengal Panchayat Act, 1957 in its section 65 subsection 2 lays down that 'the prescribed authority may remove with effect from a date to be specified in the order any Adhyaksha or Upadhyaksha or any Pradhan or upa-Pradhan from his office if, in its opinion, he wilfully omits or refuses to carry out the provisions of this Act or of any rules or orders made thereunder or abuses the powers vested in him under this Act.'

Moreover, an ordinary member of a Gram Panchayat or an Anchal Panchayat may be removed by the prescribed

2. In the case of the removal of Pradhan or upa-Pradhan the prescribed authority is the District Magistrate and in the case of the removal of Adhyaksha or Upadhyaksha the prescribed authority has been the District Panchayat Officer (vide Panchayat Executive Instructions, 1960, Part-I, PP-111 & 113.)
authority on certain specific charges. The removal of the head of a Local Council or any member of the Council is a dangerous weapon in the hands of the administrative department of the State which undermines the autonomy and sanctity of the local units. The West Bengal Panchayat system by incorporating such a feature has become more akin to the French pattern of local government than to its British counterpart. The French Mayor - the head of a Municipal Council - who is elected by the Municipal Council may be dismissed by the head of the State.

A perusal of the French local Government system shows that the local authorities in France are in a real sense organs of the State and they are parts of the hierarchy of administration with special duties. The West Bengal Zilla Parishad Act, 1963 has made both the Zilla Parishad and the Anchalik Parishad as agents or organs of the State power as the Act in its section 116 lays down that "in the discharge of their functions the Zilla Parishad and the Anchalik Parishad shall be guided by such instructions or directions as may be given to them by the State Government from time to time."

In the Soviet Union the control over local Government by the State is as complete as it ever was in Italy or Germany. In Soviet Russia nowhere the term 'local government' has been used in her constitution. The constitution, on the other hand, uses the term 'local organs of administration'.

1. Sec.20 sub-sec.(1) of the W.B. Panchayat Act, 1957 read with sec.28 F.N. In the case of the removal of a member of a Gram Panchayat the prescribed authority is the Dist. Panchayat officer and in the case of removal of a member of an Anchal Panchayat the prescribed authority is the District Magistrate. (Vide/Panchayat Executive Instructions, Part-I, 1960, PIII-12).

Contd.
State power. * i.e. the local units existing in Soviet Russia will always act as the organs of state power without having any independent power or separate entity. The constitution reads thus: "The organs of State power in Territories, Regions, Autonomous Regions, Areas, Districts, Cities and rural localities (stanitsas, villages, hamlets, kishlaks, auls) are the Soviets of working people's Deputies".

"The Soviets of working people's Deputies of Territories, Regions, Autonomous Regions, Areas, Districts, Cities and rural localities (stanitsas, villages, hamlets, kishlaks, auls) are elected by the working people of the respective Territories, Autonomous Regions, Areas, Districts, Cities and rural localities for a term of two years".

It has been told that the present system of local government in Soviet Russia is still under the influence of militant Bolshevism. Too much stress is laid on the idea that the local Soviets are merely the 'cells' of the Soviet State apparatus i.e. organs of Proletarian Dictatorship. The Bolshevik teachings of 'democratic centralisation' are frequently converted into bureaucratic Centralisation. Lenin's insistence on centralised direction and decentralised activity has often degenerated into

5. Articles 94 and 95 of the Soviet constitution.
rule from above to such an extent as to stifle local initiative.

A study of the local government system of Japan reveals the fact that the conceptions of local autonomy and local democracy in the country are entirely fictitious. Under the latest constitution of the country the trend towards expanding State control is much pronounced. In that country local entities are not only used to accepting guidance from above, but are afraid of acting without it. The Central Government bureaucracy not only continued to treat the local entities as subordinate but also pushed for changes in the law which made it clear that the tendency was not in the direction of loosening but of tightening controls. It is important to realise that the subordination of local authorities to the Central Government is reinforced by factors that would be effective in any cultural milieu. The very political considerations stemming from the financial dependence of local entities are a case in point. "He who pays the piper calls the tune" in Japan as elsewhere.

The innovation of the principle of 'democratic decentralisation' in India brings in a new political system where decentralisation of politico-economic power will always be associated with democracy and self-Government. The new principle will ensure larger and wider participation of the people in every sphere of governmental activity.

1 S.B. Sajumdar - Problems of Public Administration in India, 1961, p-252.

Foot note. Regulations concerning organisation and operations of local public entities shall be contd.
In England though there is no decentralisation of power in a sense in which it is carried in India there is always a tendency towards such decentralisation; but there the local units are creatures of the Central Government and, therefore, it is said, the autonomy of such units is in danger. The Indian conception of 'democratic decentralisation' which carries, it is assumed, autonomy for the local units to a greater extent than the U.S. and the British system of local government may be challenged when it is found that the recent Panchayat system in India has been largely a creature of the central policy as in those countries but not the product of a spontaneous urge for democracy at the local level as it was in the past. Both the British and the U.S. democracy ultimately vest the sovereign power of legislation for the creation of local units in the legislature, national or State; so does India. If that be so, the fundamental difference between the Indian system of local government and its western counterpart, which Dr. Radhakumud Mukherjee observed in the past, would totally vanish. The analysis of the present policy and activity of every government clearly demonstrates the trends towards such a progressive extension of its authority over every walk of life on account of the emergency of

Fixed by law in accordance with the principle of local autonomy (Article 92 of the Japanese constitution). Though the constitution does not specifically lay down the powers of the executive officers over the local units in Japan but in practice the said officials do use so much power as to curb the autonomy and independence of the local units.
the concept of "welfare state. "Thus, India cannot be a backnumber. The adoption of the creed of modern Socialism inevitably leads to such a course.

The Joint Director of Panchayats, West Bengal, observed "Panchayati Raj scheme does not visualise control of Panchayati Raj bodies by the Government Officers. In West Bengal laws minimum powers have been given to government officers of the State and District Head-quarters in order to facilitate the Panchayati Raj bodies to function independently". But the administrative control over the Panchayat in West Bengal will be more prominent when we come to analyse the various provisions of the Act. The provisions as mentioned here-under which left the Panchayat under the control of the administrative authority of the State are neither to be observed in the British nor in the U.S. system of local government. The Act lays down that the failure of the Adhyaksha to convene a requisition meeting of a Gram Sabha within the time as laid down by the Act will empower the prescribed authority to convene such meeting if he is requested to do so. In constituting a Gram Panchayat the ratio between the number of members of Gram Sabha and the Gram Panchayat shall also be determined by the State Government. The association of any person with a Gram Panchayat as a member to enable such Gram Panchayat

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2. Sub-sec,(3) of Sec.8 of the W.B.Panchayat Act,1957 read with Panchayat Executive Instructions, Part-I, 1950, P-114. (The prescribed authority is the B.D.O. or the Inspector of Panchayats in this case).
3. Sec.11 sub-sec.(2) of the W.B.Panchayat Act,1957.
to function effectively is also made by the State Government. The appointment of all the members of a Gram Panchayat by the State Government and its Adhyaksha and Upadhyaksha thereof for a term of one year has also been ensured by the Act if there occur such an occasion. The prescribed authority under the Act has been empowered to accept the resignations of Adhyaksha, Upadhyaksha, Pradhan, Upa-Pradhan or any member of a Gram or an Anchal Panchayat. In performing even the obligatory duties of the Gram Panchayat a Gram Panchayat shall do the same subject to such conditions as may be prescribed by the State Government. In respect of other functions the State Government may assign to it (Gram Panchayat) such function as may be required to be performed. The interference and direction of the executive department relating to the constitution and functions of the Anchalik Parishad and the Zilla Parishad follow more or less the same pattern as they are to be found in the case of the composition and functions of both the Gram and Anchal Panchayats. However, the Director of Panchayats has been empowered by the West Bengal Zilla Parishad Act, 1953 to accept the resignation of the Chairman or the Vice-Chairman of a Zilla Parishad. Furthermore, when the offices of the President and the Vice-President of an Anchalik Parishad

1. Sec.11, Sub-sec.(5) Ibid. 2. Secs.13 & 14 Ibid. 3. Secs.17 & 28 Ibid (The prescribed authority is the Inspector of Panchayats or B.D.O. in this case) Vide/ Panchayat Executive Instructions, Part-I, 1960, P-114. 4. Sec.31 of the W.B. Panchayat Act, 1957. 5. Secs.32 & 33 Ibid. 6. See the chapter on 'the Administrative pattern of the West Bengal Panchayats'.
are both vacant the Director of Panchayats may appoint a President and a Vice-President from among the members to act as such until a President or a Vice-President are elected and assume office. The Director of Panchayats has also powers to inspect the Zilla and Anchalik Panchayats and give general guidance and instructions.

Grants-In-aid is an important source of revenue of the local authorities in England. Though Grants-in-aid is not an important source of revenue of the Panchayats in West Bengal as well as in India but the same undoubtedly forms an important part of the local revenue. It is interesting to observe that the British system of local government offers a good example of Central Control by withholding of Grants-in-aid supplied by the Central Government. But the system of withholding of Grants-in-aid as a weapon of control exercised by the state Government is conspicuous by its absence in the West Bengal Panchayat system.

The issue of a writ in the nature of mandamus by the High Court to compel a local authority to execute its statutory duty is available to the Central executive in England. But this type of judicial intervention in India is only applicable in the case of the infringement of fundamental rights of her Citizens.

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3. Art, 32 clauses (1) & (2) of the Indian constitution.
It is not known whether the Central or State Government can take recourse to such action when a local government fails to perform its statutory duties.

A comparative study of the Central Control over local authorities of different countries reveals the fact that in Italy and Germany the centralisation is complete, local self-government having been entirely abolished. France remains almost as centralised as ever, and in Bulgaria and Turkey Central control is very strict. It is alleged by some that centralisation in England is increasing. But this is not true. If one tries to compare the position in the different countries as regards the extent of central control over local authorities, one must come to the conclusion that the greatest freedom from control is to be found in Switzerland and the United States. Though centralisation in France is almost complete the local government has been reduced to the position of a mere dependency in that country.

There is more interest in local matters and more vitality in local government which are not found even in England.

There are some reasons for this. The first and most obvious is the smallness of many communes and their isolation from the departmental capital. Many communes have fewer inhabitants than an English and are as remote as villages in central Wales. But they have powers of self-government which no parish council possesses. Due to smallness of

size and fewer population local attention to more concentrated and local politics are more personal in these communes. 'The Personal element holds good throughout the local government system, and it is certainly fundamental one of the most fundamental causes of its vitality'. There may be some people who are not in favour of the central control and they might argue that 'the central Government should have no powers of control over local authorities'. But it must be noted that 'not only must the State be supreme, but the central Departments are free of Local prejudices, are possessed of wide and lengthy experience and, in technical matters - including finance can usually command the services of the best experts'.

Mr. Kneir remarks on administrative control used by the State department that 'in comparison with the traditional method of control by legislation, it offers rates more certain means of achieving efficiency in the administration of State-wide programmes; at the same time, it offers local governments a large amount of assistance and a greater measure of freedom in setting their own day to day problems.'

But it is true that too much of administrative control strifes local initiative, local freedom, local choice and local autonomy. The actual operation of

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1. Ibid.
3. Ibid.
4. Charles M. Kneir & Guy Fox - Readings in Municipal government and Administration, 1961, P-162.
the principle of 'democratic decentralisation' will be frustrated in West Bengal if too much control is exercised by the administrative department of the government as it is found at present. Mehta committee remarked: "such a body, if created has to be statutory, elective, comprehensive in all its duties and functions, equipped with necessary executive machinery and in possession of adequate resources. It must not be cramped by too much control by the Government or Government agencies. It must have the power to make mistakes and to learn by making mistake, but it must also receive guidance which will help to avoid making mistakes".

**JUDICIAL CONTROL**

One of the essential features of a Federal Government is the supremacy of the judiciary as opposed to Parliamentary supremacy. India having a Federal Constitution has invoked judicial control over the executive, legislature and, lastly, over the local Units. The incorporation of this feature in the constitution has made the Indian constitution akin to the U.S. Pattern. Judiciary in India has been vested with the power of proclaiming a law unconstitutional if such law is found to be inconsistent with the provisions of the constitution. Executive department of every democratic country including India shall have the duty to enforce the law and carry out it allotted functions in accordance with the provisions of law and if any function goes contrary to the law passed by the legislature, it will be

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declared illegal and ultravires by the judiciary.
The judiciary in India has been the guardian of the constitution of India and, therefore, the interpretation of the constitution is made by the judiciary. In view of the aforesaid powers of the judiciary numerous cases against the existing Panchayat law are hanging in the State High Court. Recently Section 11 and section 57 sub-sec (1) of the West Bengal Panchayat Act, 1957 have been changed by the State legislature in the light of observations made by the High Court in two respective cases:

H.C. Choudhury Vs. State of West Bengal and B.C. Banerjee Vs. District Panchayat Officer, Nadia.

The safeguard of democracy, liberty and self-government lies in the supremacy of the judiciary. If judiciary is crippled, liberty and democracy will be endangered. Thus it is the judicial control which can protect the autonomy of the local units. Though Parliamentary supremacy as opposed to judicial supremacy has been transplanted in the English political system but there the judges on Circuit interpreted the law, and their interpretations together with obiter dicta contributed to the development of local government. Finally, when the judges on circuit found defects in administration and deficiencies in the law, they would,

* There are in England and Wales at present some 500 of districts, each with its own 'court house' and to each of 60 circuits into which the districts are grouped the Lord Chancellor assigns one judge, who holds court in each district of his Circuit at least once a month'. (See Ogg and Zink - Modern Foreign Governments, 1956, PP-344-45.).

on their return to London, advocate the enactment of a new statute. It is true that the great body of English law took form, and has at all stages been developed and expanded, largely at the hands of the judiciary.

2. Ogg and Zink & - Modern Foreign Governments, 1956, P-351.