Chapter I

INTRODUCTION


Early tendencies in U.K.

The origin of local government in England has had its roots deep into the past. The present day infra-structure can be traced back to the Anglo-Saxon period. In this period, the local institutions consisted of Shires, Hundreds and the Townships which are similar to the County, District and Parishes of today. The 'burghs' (boroughs) or large fortified towns, may be compared with the County Borough of today. In the early history of local government in U.K. the place of Hundred was above the Township. The Hundred was a union of few persons, which was constituted for the purposes of judicial administration, peace and security. The shiremoot maintained and enforced local usages and bye-laws. The Frankpledge was, under the Saxon constitution, an association of ten men who were to be the standing securities for the community. The Frankpledge may be regarded as "a sort of artificial prolongation of the family tie, or as based on the principle of the law of Athelstan, that
every man should have a security for him". 1

The Sheriff became so powerful that Edward III appointed them Justices. These Justices were responsible for the administration of justice and law and order. He also appointed Lord-lieutenants to be the king's representative in the county. After the Norman conquest in the 11th century, the whole of England was united and brought under one centre and came under the control of a single Crown. At this time the local institutions of the Saxon period were abolished or reorganised in a different manner. It was only the Hundred which was not abolished and allowed to perform its duties as before. The Saxon moots were abolished and their powers were transferred to the Lord of Manor and the County Court. The accensors vestry meeting survived and constituted for the administration of the growing functions of the local government, police, poor relief, highways, sanitation, rating, etc.

With the lapse of more time a new local unit emerged and came to be known as the Parish. The Parish meetings were presided over by the Parish priest. "Originally the Parish meeting dealt only with Church affairs, but it gradually acquired some civil functions as well." 2 To obtain freedom from the Lord of Manor and his court, application was made to the King, for a charter of

incorporation creating part of the Manor, a Borough free from the
jurisdiction of the Lord of Manor. The Borough acquired additional
powers and came to have autonomous power of the local adminis-
tration. Gradually the borough became chartered municipality.
It had a Mayor, Alderman and Councillors who constituted the
local authority. It performed various kinds of functions.¹

Fourteenth century witnessed a remarkable decay of the
Feudal system. The Manor courts fell into disuse; law and
order became increasingly difficult to maintain. At this time,
the crown appointed justices of peace to maintain law and
order. The justices of peace were also empowered to supervise
some civil functions.

By the 16th century, the system of local government was
again reorganized. The functions of the local authorities were
enlarged. Untill the end of the 16th century, the functions of
the local government were the upkeep of the roads, bridges, jails
and county buildings. The county officials were responsible for
these tasks. But in 1601, under the provision of the Poor Relief
Act, the parishes were empowered to levy rates for the poor
relief in their respective areas. They were also empowered to
appoint unpaid officers to supervise the executive work.

From the time of the passage of the Poor Relief Act till
the 18th century, the development of local government was very

¹ S.R. Nigam, Local Government (England, France, U.S.A.,
U.S.S.R. and India), S. Chand & Co. (Pvt.) Ltd., New Delhi,
1975, p.12.
slow. The Industrial Revolution changed the entire basis of the economic and social structure of the country and created many problems connected with local government.

The vastly growing population gathered around the newly developing industrial towns. Houses were haphazardly built without any proper regard to public health requirements and existing houses became grossly over-crowded. The Borough Councils were unfit to deal with the problems so created, and so public spirited individuals obtained powers from the Parliament to carry out the necessary services. Boards of Guardians, High Board and the local Boards of Health were formed. Under this ad hoc system of local government became a chaos of areas, a chaos of franchise, a chaos of authorities and a chaos of rates. It became evident that more effective administration of these new bodies was needed.

Attempts at reform in local government were made after the passing of the Parliamentary Reform Act in 1832. The Act of 1832 was followed closely by two Royal Commissions, one to enquire into the administration of the notoriously corrupt Boroughs and the other into the abuses of the Poor Law. The former resulted in the passing of the Poor Law Amendment Act 1834, which abolished the former parochial and set up Boards of Guardians for unions of Parishes. The Municipal Corporation Act, 1935, brought about a measure of reform in the Boroughs. Political abuses were swept away. Administrative and judicial powers
separated, trading monopolies abolished, the franchise extended to the rate payers and financial administration was again organised by the introduction of a Borough audit system. The recorder was to be appointed by the Crown. Every Borough was required to maintain a police force. The first General Public Health Act 1848 set up the General Board of Health as a controlling and coordinating central authority. In the year of 1871, it became the Local Government Board and in the year 1919, it became the Ministry of Health, but in 1951 the work was divided between the Ministry of Health and the new Ministry of Housing and Local Government.

In the 19th century continuous reforms were introduced in the local government. The Local Government Act, 1888, transferred the local government functions from the justices to the elected county councils and newly created Boroughs. By this Act, powers were given to the County Councils to delegate the exercise of their functions to Committees, and in some instances to internal local authorities. The Local Government Act 1894, coordinated the work of local government within the administrative Counties by distributing the work in urban areas between Borough and Urban District Councils. In the rural areas an attempt was made to restore some of their ancient glory to the Parishes by the creation of Parish Councils and Meetings, and so the Act is sometimes referred to as the 'Peasant' Charter. In 1923, the Royal Commission on Local government under the Chairmanship of
Lord Onslow was appointed. It arose out of the frequency of the changes brought about by the creation of new County Boroughs and the enlargement of existing County Boroughs. It was also recommended that new County Boroughs should be created by only a private bill submitted to the Parliament, that extension should be similarly treated if there is any opposition, and that the County Councils should regularly review the existing areas of County Districts and Parishes.

In the early years of the 20th century, a number of Acts were passed empowering the local authorities. The Local Government Act of 1929 abolished the Boards of Guardians and transferred their Poor Law functions to the New Public Assistance, the Council of Counties and County Boroughs. The main object of this Act was to reform certain defects in the existing system of local government. The Local Government Act 1933 was passed after the 1929 Act. This Act resulted from the labours of the Local Government and Public Health Consolidation Committee was set up in 1930 by the Ministry of Health. The Committee was set up as a result of the Royal Commission on Local Government (1923) and their recommendations that the work of consolidations should be taken in hand immediately. By this Act, more importance was given to health problems.

There has been a considerable growth of local government since the middle of the last century. During the present century, there has been a marked movement to transfer many major services
from the minor authorities to control the large authorities
the Councils of Counties and County Borough. Example of this
are Education and Midwifery (1902) and the Country Planning
(1947). Many services have been nationalised. Jails were
transferred to the State in 1877. The State accepted responsi-
bility for the able-bodied unemployed in 1934; the veterinary
service including the control of milk production on farms,
became the responsibility of the Minister of Agriculture in
1946; hospitals passed to the control of regional boards in
1946; central and regional boards took over electricity in
1947 and the responsibility for the valuation of property for
local rates was transferred to the Board of Inland Revenue
in 1948.

The decision to undertake a comprehensive review of the
existing local government structure was first taken towards the
end of the Second World War when the Local Government Boundary
Commission was set up in 1945. At that time movements of
population and the spread of large industrial areas seemed to
call for substantial adjustments in local authority areas.
There was, moreover, the question of examining claims for the
creation and extension of Country Boroughs; which had been
held up during the War, and a series of reviews of County
Districts had become due. However, although the Boundary
Commission carried out of a thoroughgoing review, it was then
found impracticable to adopt the far reaching changes in local
authority areas, status and functions that it recommended.
After the dissolution of the Boundary Commission in 1949, the question of local government reform was discussed at joint conferences of the various local authority associations. The two local government commissions established by the Local Government in 1958 were charged with reviewing all local governments in their respective counties to see whether a more effective and convenient structure could be set up. By their terms of reference, the Local Government Commissions were empowered to recommend the alteration of the areas of existing counties or their abolition, the constitution of new Counties or County Boroughs into non-County Borough. In the special review areas the Commission was also given power to make proposals for changes in non-County Boroughs and County Districts, to recommend the creation of a new type of local authority — 'a continuous county' — and to suggest the way in which local authority functions should be distributed between the Country and the Borough and District Councils in such an area. The Act provided that consultations must be held with local authorities and other local interests in the area, and their views taken into account throughout the review process. It also required that the final proposals submitted to the Ministry of Housing and Local Government and accepted by it, with or without modification, should be presented to the Parliament. In London, reform was initiated by the setting up of a Royal Commission in 1957, which reported in 1960.

In 1963, London Government Act, which followed the general
conception of the Royal Commission but with certain modifications received Royal assent. In 1965, the new machinery of Local Government in Greater London comes into effect. The main pattern of local government organisation, outside Greater London, is a division of the country into County Boroughs and Administration Committees and independent of them. The Administrative Counties are subdivided into smaller units; non-County Boroughs and County Districts — consisting urban districts and rural districts, the last named being further divided into rural Parishes. Each of these divisions has its own power functions and duties and was to be administered by its own elected Council. Alongside the legislative processes the machinery for the implementation of these laws automatically underwent some basic changes. The volume of work went on increasing with the growth of economic activities of the nation and welfare activities of the local areas. With the advent of Industrial Revolution the complexion of the society changed. Overcrowded cities cropped up and new demands multiplied in numbers and complexity called for basic changes in the structure of local government. Modernisation led to multiplicity of demands and industrialisation increased the role of local bodies. The role of Bureaucracy became more and more pronounced and the local government acquired the shape of local government. The relationship between the national government and the counties was put on a legal basis and statutes were passed to regulate their mutual relationships. Administrative relationship
also became more pronounced. The inherent defects of local bodies, both in conception and execution, were removed and services gradually became more efficient and stable.

Under the Saxon kings local government was simple and strong. This has been called the golden age of local government in England. In Saxon times the pressure on local government was slightly felt. The main duties of a free man to the State were comprehended in the duties of military service, the maintenance of bridges and the repair of fortifications. As regards administrative government, the Shire was almost independent. They were subdivided into Hundreds and these again were subdivided into Townships. These townships grew in size, area, population and acquired big cities which turned into Administrative Counties.

The Evolution of Local Government in the U.S.A. — Early trends

The evolution of American local government can be traced back to the self-governing institutions of the Anglo-Saxons, which were to be found in Britain during the fifth century A.D. In the American colonies, cities were known as Boroughs traced from English system. The American Boroughs were based upon the Charters. "A few colonial communities, like Boston, which were not legally municipalities, were urban in reality." 1 At the close

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of 17th century, there were nearly 200 municipal corporations in the country. Their set up based upon the Charter issued by the King. Each had a unicameral council headed by a Mayor and consisting of Aldermen and Councilmen. Like the magistrates, the Mayor and the Aldermen performed judicial functions. Many of the Borough Councils were permanent and the members held offices for life. Chief officers to the city, like the administrative officers today, were appointed by the Council. These officers provided trade and commercial facilities rather than public functions.

Early American cities, like the English ones, sprang from the Charters of the Crown. These Charters were not issued by the King as in England but issued by the Governor or Proprietor acting in the name of the Crown. A unicameral legislative body of Councilmen, Aldermen and Mayor was established. Mayors and Aldermen exercised the judicial functions. Under the Charter of 1730 provision was made that the Governor had authority to appoint the Mayor and Recorder.

After the revolution, American local government took a different direction from the English model. The powers of Governor were reduced and the legislative powers were enlarged in all the States. From 1776 to 1800, an indigenous form of municipal government was set up. Baltimore’s Charter of 1796 set up a bicameral city Council. One Chamber was elected by the property owners and the second was chosen by an Electrol
College. This Charter provided the power of veto to the Mayor. Some administrative officials were appointed by the Mayor, but such appointments had to be made from the list of eligibles submitted by the City Council.¹

By 1850, all municipal governments had mostly elected Mayors. Bicameral City Council and the elected administrative officials. Judicial functions were taken away from the Mayor and council members and had been granted to special courts, such as justices of peace, police courts and so on. In Chicago Charter of 1837, provision was made for the election of an Assessor by each ward, but the power rested in the Council to appoint a Clerk, Treasurer, City Attorney, Street Commissioner and Police Constable. This made an arrangement for department of police finance, street repairs, etc. The heads of these departments were elected every three years by the people. The Charter of San Francisco in 1851 provided the provision for the election of Mayor, Recorder, Treasurer, Attorney, Street Commissioner and three Assessors.²

Municipal Corporation, during first half of the 19th century, came under the control and supervision of the State. There were many reasons for increased State control over Municipal Corporations, for one thing, the people of cities were unhappy about local developments. In this period, the

¹ W.B. Munro, Municipal Government and Administration, New York (1930), Vol.1, pp.92-93.
unicameral councils in some places replaced by the bicameral councils.

The latter half of the 19th century was a dynamic period in the municipal history. The increasing number of inhabitants and the continuous demand for public works and services brought new difficulties for the governmental machinery. In the second half of the 19th century, relations between States and localities disclosed two conflicting trends. Although legislature continued to interfere in municipal affairs by the Acts, constitutional changes were shaped either to strict legislative directions or to permit municipal initiative as in Home Rule. In 1857, a metropolitan police board was established under State control for New York city. Municipal home rule in primary sense meant the right of the municipality to shape their own charter, to determine its form of organisation and to supervise the powers given by State law. In broad sense, home rule was a field of local action or power within which the city was free in its conduct of local affairs. The municipality would have full and complete control of its own affairs, and the State would direct all matters of state concerned.

During the last half of the 19th century rapid urbanisation brought good and bad alike for the government. Strong Mayor or by a weak Mayor plan developed as a solution to government by Council or by a weak Mayor and Council. Boards became a common means of directing municipal departments. State interference in the municipal departments was to limited extent and
the home rule plan was launched. The bad condition of American city during 20 years following the Civil War so widespread that Lord Bryce wrote in 1888, "There is no denying the governments of cities is the one conspicuous failure of United States." The continuous corruption and the general unwieldiness of municipal governmental machinery, together with irresponsible in efficient wasteful government in many cities.

During the present century, municipal government underwent drastic changes in its formal construction, until 1900 Federal and State models were heavier in their influence upon Municipal Charter. The original English Borough had ceased to be the pattern. This departure was marked by the elective transformation into the mayoralty and in the growth of administrative management to that office. In the 20th century two new forms further emphasized the Council. The Commission idea adopted first and used the Council not only a little representative body of administrators individually with collective responsibility for ordinance but also responsible for specific departments in a city. Council Manager Plan depended upon a new division of responsibilities, authority over ordinances, but without administrative function in relation to individual departments. Executive leadership in administration was given to a manager appointed and removed by the Council. Under the commission plan

the mayor has lost the veto power in most charters and the executive functions in the government. In the Council Manager Plan the Mayor rarely had a veto power and lost the authority to appoint the departmental heads. In theory and practice, the Mayor became a presiding officer in big cities. Most of the cities are functioning successfully under their weak mayor and a few strong mayors.

The 20th century shows more developments in the municipal organisation and in the administration than any period of history. The commission plan dissipates the idea that a city government had to reflect national and state models in separation of power, check and balance, bicameralism. The local bodies gradually lost their decentralised character and became more and more centralised in operation. Traditions, usages and conventions gave place to written charters, laws, bylaws ordinances, decrees, executive orders, judicial decisions, etc.

The models local government in general were adopted from U.K. and once they found sprouts, they developed according to the requirements of the thirteen states in which the U.S.A. was divided.

The scales were turned in favour of the unicameral council. The mostly adopted the council manager plan. The home rule system had improved state city relations in spite of the limitations it revealed.

In an institutional sense, the English Borough gave shape to
American municipal government, although it ceased to be a determining factor after the colonial period.

**Evolution of Local Government in France**

The French local government is different from the English local government. Modern France is a highly centralised unitary state. Under the Ancient Regime the country was ruled by the monarch and he had all the governmental powers. In that period, the country was divided into the provinces for the purpose of civil administration. Originally this unit was set up for the collection of taxes. The province was called the Generalite and presided over by an official called Intendant. The Generalite was like a district in India and the position of the intendant was similar to that of the Deputy Commissioner in our country. These Intendants were appointed by the monarch and were responsible to him. The will of the Monarch was put into action by him. Like the Deputy Commissioners in India, they practically look after all aspects of district administration — law and order, justice and revenue. Under the reign of Louis XIV, the centralised administration reached at its apex.

During the last days of absolute monarchy, French local government had fallen on bad days. The development of commercial centres, the feudal lords were thrown in the provincial cities. In some cases, cities were granted Charter which entitled them

1 S.R., Nigam, op. cit., p. 83
"to elect their own local officers, to make their own by-laws, to be exempt from outside taxation and even to maintain military establishment of their own."¹ In other cases the degree of freedom was found very little. The citizens of various communities soon feel to fighting over. The situation became so disturbing that the monarch had to interfere in interest of better administration and law and order.

The original charters were replaced by the Royal Ordinances which solidified the central control over municipal affairs. Locally elected officers were replaced by appointed functionaries. By the 18th century it became the practice that the citizens were called upon to pay heavy taxes for the municipal administration and got little or nothing in return. Under such a system municipal government was shot through with corruption, inefficiency and disorder.

After the French Revolution in 1789, the old system of local government was altered. The Constituent Assembly of 1790 issued an ordinance which abolished the Generalities and divided the whole nation into a number of Departments (Districts). Again the each Department was further sub-divided into small districts latter called Arrondissements. These Arrondissements were again divided into Cantons. Each Canton contained a number of communes.

In addition to hierarchical system, arrangements introduced

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a considerable degree of popular control. In each department, a Council of 36 members chosen by manhood suffrage, was constituted while for the Communes there was to be a simple framework of local government consisting of popularly elected Council and Mayor.

The revolutionary terror swallowed up the country. In many parts of the country, administration and financial chaos prevailed.

With coming of Napoleon as First Consul and later as Emperor, brought this trend towards centralisation to a climax. Napoleon abolished the local autonomy both by Departments and Communes. A direct representative of Prefect was appointed to control the affairs of each department. The Council of Department became an appointing body and its powers were reduced. It was also decreed that Communes were to be governed by a Mayor with a few assistants and a Council (depending upon population). The members of the Council were appointed either directly by the Central Government or indirectly through its local agents, the Prefect. Napoleon's administration created a suitable pyramid of administrative control and weakened the Central trends in administration.

After the fall of Napoleon in 1815, till the incarnation of the Third Republic in 1871, a fairly and strong system of local autonomy was established. The Monarchy of Louis Phillippe brought a legislation in 1833–38, which made the Departmental and Municipal Councils elected in nature and increased their scope and powers. It was decided by the government of the Second Republic that the Mayor and his assistant
should be chosen from the membership of the popularly elected
Communal Council and should be responsible for directing the
local public sources.

In August, 1871, the National Assembly made the law, which
greatly increased the matters on which the departmental
councils might legislate and somewhat reduced the supervisory
authority of the Prefect. The Act of 1871 still functions as
the organic law on the organisation and status of the Department.

In 1884, the National Legislature made a law in which
more powers were given to the Commune. This Municipal Code has
been called "Charter of French Municipal Liberties". Since then
it adopted the legal basis for urban and rural government
throughout France except the capital city, which enjoys a
special status.

Since 1884, the municipal code has been amended only in
minor particulars generally in the directions of increased local
advantages. The financial difficulties into which many local
areas fell in the period of post-World War I economic crisis
forced such areas to turn to the State for abundant grant-in-
aid, leading to a sharp revival of central control over local
especially municipal matters.

The popular basis of government locally has been significantly
widened since World War II due to the enfranchisement of women.
But limited scope for autonomy is still a characteristic feature
of the French system of local government. Municipal Home Rule
has no place in the political philosophy of France.
Paris has a slightly different form of government. Being the metropolis of France, it has needs and problems which differ from the rest of the country. It is situated in the Department of Seine. Even this department differs from the normal pattern of Departmental organisation.

In France local government was centralised from the very beginning. The Prefect represented bureaucracy and there was no self-government worth the name and all legislative and executive powers were located in the Central Government. In its scheme of self-government, India had to borrow little from France. These two systems were poles apart, one verging on centralisation and the other tending to adopt decentralisation.