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LOCAL GOVERNMENT IN CEYLON UNDER FOREIGN RULE: AN ANALYSIS

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Discussing the tradition and pattern of American local government, George S. Blair pointed out:

"Americans in the last half decade have experienced in growing appreciation of their local governments. When asked 'From which level of government do you feel, you get the most for your money - federal, state or local?' they are increasingly giving their vote of confidence to the local level"¹

Further he notes that:

"In the present era of convenience, comfort, centralization and crisis, it is difficult to visualize the struggles of the early settlers in laying the foundations of our new nation. The beginnings of popular government in the New World well established in small settlements variously known as manors, shires, hundreds, parishes, gores, plantations, tenths, liberties and hamlets as well as in the more familiar towns, townships, boroughs, cities and counties"²

Similarly in England, the constitutional history clearly demonstrates a continuous development in local government since the Norman conquest.³ Evolution of local government in Sri Lanka could also be compared with the American and the English experience. Although mention has been made to the effect that, local government in Ceylon played a much less important role than in most developed countries,⁴ it is clear that a system of local government operated from the 4th century B.C.⁵ This system of local government of ancient Ceylon comprised of *Gamsabhawas* (or village councils) at the village level and the *Rata Sabhawas* (District councils) at the district level. An examination of this indigenous form of local government reveals that they were participants in solving irrigation disputes, petty thefts and land disputes among the villages. Also, the councils were empowered to collect taxes on behalf of the Central Government. It is therefore clear that during the ancient period, the *Gamsabhawas* and the *Rata sabhawas* played a key role in the local government administration setup. These features were later re-introduced by the British administrators, under the Village Councils Ordinance.⁶

1 George S. Blair, Government at the Grass Roots, Fourth Edition, Palisdes Publishers, California, 1986, p. 1.

2 ibid.

3 Sir Ivor Jennings, Principles of Local Government Law, 3rd edition, University of London Press, 1948.

4 Sir Ivor Jennings and Professor H.M. Tambiah, The British Commonwealth, the Development of its Laws and Customs Vol. 7. Ceylon, London Stevens and Sons Ltd., 1952, P. 81.

5 Wilhelm Geiger, The Mahawamsa, Ceylon Government Information Department, Colombo ch.10 p.75. No. 26 of 1871

The period between 1505-1948, is historically of high importance to Ceylonese local government and administrative evolution, as it discusses the Colonial power over the country. Since the year 1505, the island has experienced three different systems of administration. In 1505, the country fell an easy prey to the Portuguese and in 1656 and 1796 to the Dutch and the British respectively. Although it is a clear factor that the modern developments in local government was chiefly due to the British administration, a detailed analysis reveals that a system of local government had been in operation even during the Portuguese and the Dutch period. This, therefore, supplies ample evidence to the fact that we had a system of local government in this country throughout the colonial administration. The intention of this article is to examine the type of local government institutions we had during the colonial period. In part I we would be assessing the Portuguese system of local government and the local government system which prevailed during the Dutch regime would be analysed in Part II. The early British period, prior to the enactment of the first ordinance, pertaining to local government would be discussed in Part III. In order to obtain an understanding about the Central administration which we had in addition to the system of local government, the type of central administration we had during the period under review and the relationship between the central and local government would be discussed in all three parts on a comparative basis.

1. The Portuguese Period

The Portuguese administration was limited to Kotte and the South-west coastal strip of the island. In 1597, the Captain - General, Don Jeromino de Azevedo, summoned a conference of local chiefs at Malwana to decide whether to govern the country according to the local customs or according to the Portuguese rules. At this Malwana convention it was decided that the country should be governed according to local customs. As illustrated in diagram one, the Portuguese territory was divided into four provinces which were named as *disavanies*. Over each *disavany* was placed a great noble with the title of *Disava*. The *Disava* was responsible for the revenue of his province as well as for the judicial and military administration. The *disavanies* were divided into *Korales* each under a *Korale-vidane* with revenue and judicial powers. The *Korales* were divided into villages and each village or a group of villages was under a village headman named *Vidane* or *Mayorals* as the Portuguese called them. All these officials were under the control of the *Disava*. Although these arrangements, sound well in theory, there was much abuse and corruption in practice, both by the Portuguese as well as by the Sinhala officials.⁷

It is important to analyse the Portuguese colonial official life style during this period, as this reveals the trends of local government which were spreading towards the colonies and the attitude of the Central Government towards these local authorities.

7 T. Abeysinghe, Portuguese Rule in Ceylon, Lake House Investments Ltd., 1966, pp. 69-72.

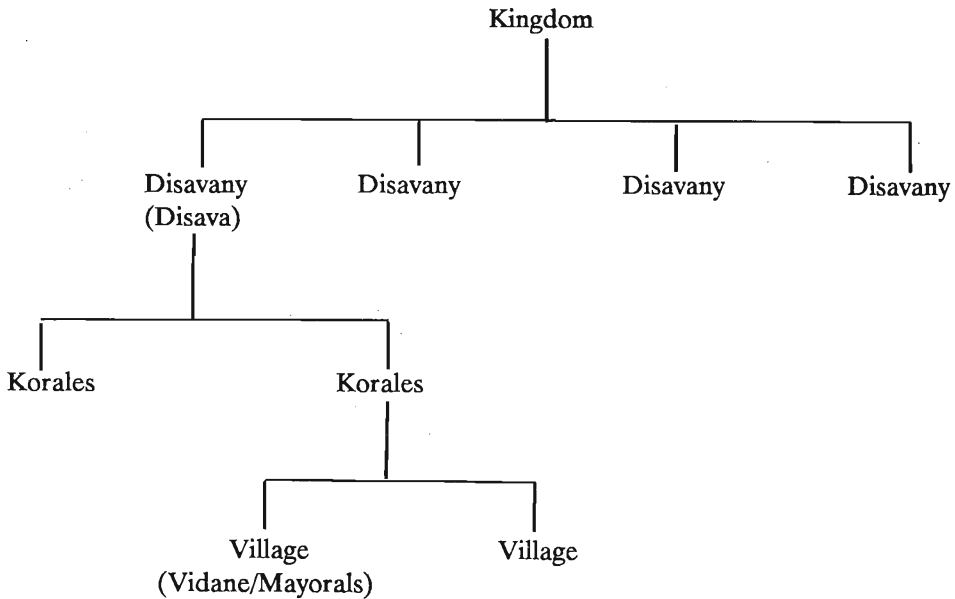


Diagram I: The Colonial administrative structure in Portuguese Ceylon.

Source: T. Abeyasinghe, *op.cit.* pp. 69-72.

Describing the Portuguese colonial life style, Professor C.R. Boxer indicates that the most important feature in local government was the *Senado da Camara* (literally the Municipal Council), which was the equivalent of Spanish Cabildo and the Anglo - American Town Council.⁸ He further explains:

like these (other) institutions it attained greater importance when transplanted overseas to the colonies, than when it remained directly exposed to the centralising tendencies of the home government. The composition of the *Senado da camara* varied slightly in accordance with the place and time but it usually comprised two justices of the peace (*Juizws Ordinarios*), three councillors or aldermen (*vereadores*) and a procurator or attorney (*procurador*). The method of election to these (and sometimes to other) municipal posts was not exactly the same in every community, but it did not differ widely.⁹

There is reference to the work of a Municipal Council in Colombo during the Portuguese period. The first information regarding this organization runs back to the year 1585 and takes the form of a royal letter, received by the Viceroy, implying that the

8 C.R. Boxer, *Salvador de Sa and the struggle for Brazil and Angola, 1602-1686*, University of London Press, 1952, p. 30.

9 *ibid.*

inhabitants of Colombo had complained to the Viceroy that the Captains of that fortress were interfering with the affairs of the Municipal Council and its money.¹⁰ This is the only mention by Coutto about the Municipal Chamber of Colombo and he indicated that the Council consisted of aldermen elected annually and other officials.¹¹ It is also said that the council had aldermen and other leading citizens.¹² Direct evidence of the composition of the Council is very scarce. However, it appears, through the signatures of a petition forwarded by the Council, that there were six regular members in the Council. These six members were the three aldermen or *vereadores*, two magistrates or the *juizers ordinarios* and the *procurator* or the *procurador*.¹³ The officials especially the aldermen, were elected by the citizens and these elections were held annually. It is difficult to specify whether the Ceylonese who were residing in that locality were eligible for voting. Under Portuguese colonial rule, the citizens who were not mixed with Jewish, Moorish or Negro blood or who were not engaged in industry, trade or commerce were generally eligible to vote, but it is difficult to say whether this rule applied to Ceylon. Portuguese territories in Ceylon were small in scope and the majority of the voters would have been the Portuguese Citizens residing in the island.

The most significant feature of the Camara of Colombo was that it was under the strong influence of the Central Government. Though the Council had elected members, it functioned under the Captain - General, who was the governing authority of Portuguese Ceylon. The relations between the Central Government and the Municipal Council of Colombo during the Portuguese period reveal some interesting points to note. The most fascinating feature of this relationship was the number of attempts made by the Municipal Council to function independently. Hence, disputes between the Camara and the Chief administrative officers of the Central Government were frequent. According to Dr C.R. de Silva:

They were usually the result of the attempt of a *vedor* to impose some dues on the *casados* of Colombo, or the attempt of the *Camara* itself to spearhead opposition to an unpopular General.¹⁴

On one occasion when the officials of the *Camara* protested against an unpopular General, the officials were arrested and they were sent to Goa for trial.¹⁵ There were even clashes between the Captain General and the Municipal Council due to the interference of the Captain General with the administration of the Council. Thus in 1618 the Municipal Council obtained an order from the King of Portugal specifically forbidding the Captain-General to interfere with the administration of the city.¹⁶

The dispute between the Central Government and the Municipal Council regarding the grant of Cinnamon may be mentioned to illustrate the desire of the Central Govern-

10 J.R.A.S.C.B. Volume XX, Colombo, H.M. Richards, Acting Government Printer, Ceylon, 1908, p. 268.

11 *ibid.* p. 401.

12 *ibid.* volume XI p. 532.

13 C.R. de Silva, *The Portuguese in Ceylon*, 1617-1638, H.W. Cave and Co. Ltd., 1972, p. 180.

14 *ibid.*

15 *ibid.*

16 *ibid.* p. 181.

ment to interfere with the affairs of the Municipal Council and the number of attempts made by the *Camara* to restrain their powers. The *Camara* had the power to levy taxes for the purpose of supplying utility services. One of the main sources of income was the taxes collected from ferries. Besides this the other incomes were by levying taxes on non staple food, receiving rents for municipal property and imposing fines on the violators of rules.¹⁷ However, the major part of the income was derived from the right to export forty *baharas* of cinnamon, which was an allocation by the Central Government as an annual grant. Thus, in the year 1614, there were some efforts by the Central Government to suspend the grant to the Municipal Council, which was the right of sale of forty *baharas* of cinnamon. The Council petitioned to the King against this effort and despite the restrictions from the Central Government, the Municipal Council continued to take this grant for municipal purposes.¹⁸ The struggle to restore the right of the grant continued until 1623 and finally in 1624 the King of Portugal not only agreed to continue the grant but also, in view of the Dutch threat, increased the grant to one hundred *baharas* of cinnamon a year.¹⁹

On many occasions requests were made to the King by the city officials for exemption of the Council from jurisdiction of the Captain-General. For instance, on one occasion he replied to the Council stating:

in a place like Colombo, with such a small number of persons capable of governing to choose from it would be inconvenient to exempt the chamber from the jurisdiction of the captain.²⁰

One last point may be made before we proceed to discuss the Dutch regime, to demonstrate the determination of the *Camara* to function as a parallel authority to the Central Government. On several instances the *Camara*, even without any statutory duty, advised the Captain - General on matters of policy and especially during the times of crisis, the Captain - General consulted the *Camara* to obtain advice.²¹

However, it is also relevant to note that as the Portuguese administrators were keenly involved in the trade of Cinnamon they paid very little attention to the development of local government.

2. The Dutch Period

The Dutch ruled the maritime provinces from 1656 to 1796 and the country was administered by the Dutch East India Company. The Central authority consisted of the Governor-General and the political Council of Ceylon. The Council consisted of the senior officials of the area.²² These officers were the *Hoofd Administrateur* or the Chief administrator, the *Disave*, the Principal Military Officer, the first warehouse keeper, the

17 *ibid.*

18 *ibid.*, p. 182.

19 *ibid.*

20 J.R.A.S.C.B., volume xx, *op. cit.*, p. 60, T. Abeyasinghe *op. cit.* p. 98.

21 C.R. de Silva, *op. cit.* p. 181.

22 The Ceylon Journal of Historical and Social Studies, Volume 8, Tisara Prakashakayo, Colombo 1965, p. 1.

Pay Officer, the Trade Supervisor, the Fiscal and the Political Secretary. The Commanders of Galle and Jaffna were also ex-officio members and when they were present in Colombo they had precedent over all the resident members. The Dutch too, like Portuguese, were mainly engrossed with their business of trade and as a result paid very little attention to the administration of the island. They like the Portuguese, had the same system of administration with *Disaves* and *Disavanies*. As shown in diagram II, the area of authority of their territory was divided into three main commanderies or administrative sub-divisions namely, Colombo, Galle and Jaffna. Each division had a *Disava* with a number of deputy *Disaves*, the number depending on the extent of the area to be governed. A *disavany* was divided into *korales* and *korales* consisted of two chiefs; the *Mudaliyar* and the *Korale*. The *Mudaliyars* were in charge of military services and were assisted by muhandirams and Arachchies, while the civil affairs were carried out by the *Korales*.

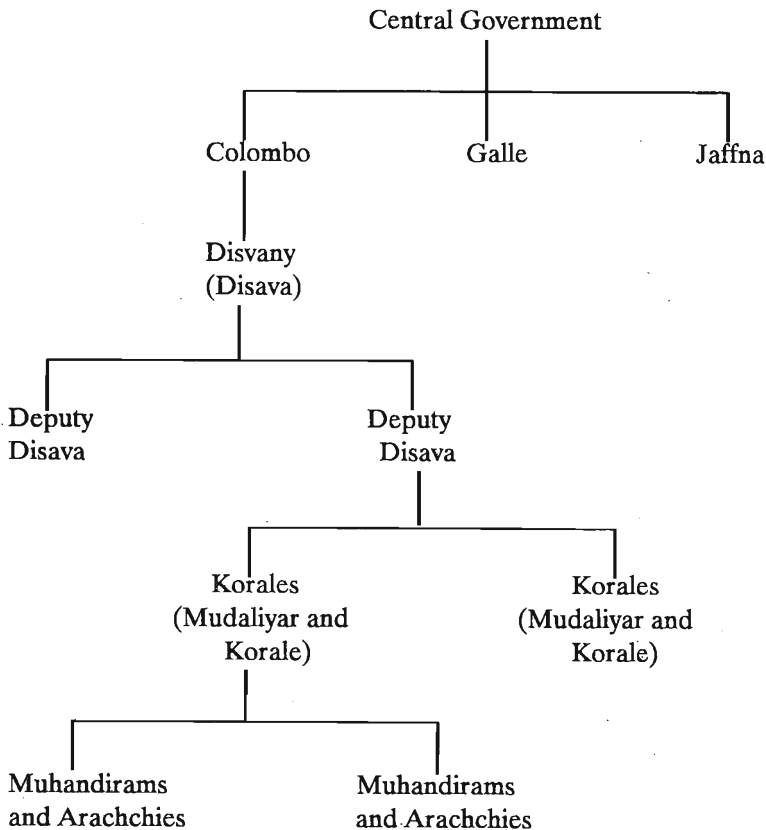


Diagram II: The administrative structure in Dutch Ceylon.

Source: The Ceylon Journal of Historical and Social Studies op.cit. role 22.

It is interesting to identify a highly bureaucratic system of Government during the Dutch period. The most significant feature in central local relations during this period was that there was no Municipal Council or similar local-government institution to carry out the Municipal matters of the city. Instead of having a system of local government, it appears that the Dutch Government had entrusted wardmasters with necessary powers to carry out all the local government functions. Governor appointed wardmasters and they were responsible for the sanitation, roads and fire control of the city.²³ The city of Colombo was divided into eight wards, each under a wardmaster. During the period between 1666 and 1676 three ordinances were enacted with regard to local government in Dutch Ceylon. The first ordinance of 2nd March 1666 was enacted against cutting earth and building houses in the streets and roads. By the Second Ordinance of 10th August 1673 it was ordered to keep the streets clean on pain of fine of fifty six dollars. The ordinance of 17th December 1676, ordered all persons having houses in town covered with cadjan²⁴ to get the same covered with tiles on pain of forfeiting the whole ground and required that the streets before each house were to be kept clean and that the cattle be driven out of the Fort for pasture on pain of punishment and forfeiting the same.²⁵ The available data, it should be reminded, does not permit us the opportunity of examining the dutch administration on municipal matters in detail. However, according to the limited evidence available in relation to the Dutch administration, it is quite apparent, that all the functions within the Dutch territories were carried out by Government officers under the supervision and control of the central authority.

3. The Early British Period : 1796 - 1836

This may be introduced as the period which established a modern system of local government in the island, a process which raised significant problems in the relations between the central and local government; many of which yet remain unresolved. The first half century of British administration in Ceylon shows the decline of the system of ancient local government despite the various attempts made by the British Governors to re-establish it in the island.

The capture of Ceylon by British forces was undertaken mainly to protect the East India Company's territories in India and to prevent the French fleet making use of the finest bay at the South Asiatic coast at Trincomalee. By this time the French armies invaded Holland and overthrew the *Stradtholder*²⁶ and he fled to England. As the *Stradtholder* was taking refuge in England, he ordered the Dutch Governor in Ceylon to admit the British troops into the island. However, this order was not carried out and, the British forces had to conquer the Dutch forces. Trincomalee, which was not only a natural harbour but also the finest and most important place in the island at that time,

23 D.A. Kotelawala, *The Dutch in Ceylon 1743 - 1766* unpublished thesis of University of London, 1969, pp. 301 - 302.

24 Coconut leaves.

25 Index to the legislative acts of the Dutch Government of the island of Ceylon, appearing in a collection of Legislative Acts of Ceylon Government, Volume I, published by William A. Skeen, Government Printer, p. 408.

26 Viceroy or Governor of Holland

was the first to fall into British hands. After the capture of Trincomalee on 26th August 1795, the British troops arrived in Colombo and on 15th February 1796, all the Dutch dependencies in Ceylon, including Colombo surrendered to the British.²⁷ However, until the Peace of Amiens in 1802 it was not clear whether the Dutch territories would remain under British rule. For this reason from 1796 until the island became a British Crown Colony on 1st February 1802, the administration was undertaken by the East India Company which functioned from Madras. The Madras Government created a system of dual control of civil and military affairs. The Commander-in-chief of the troops also exercised certain functions in civil matters. However, civil matters were taken over after 1796 by the Madras Civil Service, under the resident and the Superintendent of Revenue, Robert Andrews. He had four subordinate assistants to carry out administrative, financial and judicial matters. Each assistant had a number of native officers named *Aumildars* who were in charge of sub-division of districts. Their duties were mainly based on the collection of revenue but a small share of administrative functions was also allocated to them. Prior to the appointment of *Aumildars*, these duties were carried out by the native *Mudaliyars* who knew the ancient customs of the island. The *Aumildars* were natives of the Madras Presidency who knew nothing about the prevailing customs in the island. They had the same powers as the *Mudaliyars*, but used them more oppressively. The taxes were high and the lands were held on service tenure which required work on a given number of days on the roads.²⁸ The ultimate result was the growing unrest among the Sinhalese which resulted in rebellions lasting for more than a year.

Certain measures were taken for the development of the administration as the result of the riots. Tree tax and coconut tax were abolished and a commission was appointed under the chairmanship of General de Meuron. The subsequent conciliatory measures taken by the Government were able to restore the peace of the country by March 1798. The Sinhala officials, viz, *Vidanes*, *Arachchies*, *Muhandirams* and *Mudaliyars* were given their due designations.

A period of new developments began in 1798 with the arrival of the Hon. Frederick North as the Governor and Commander-in-Chief of the island. The Madras administration was abolished and the island was controlled by the Crown and the East India Company jointly. The Governor had instructions to correspond with

‘the council of Directors of the company and with the secretary of state through the Court, and to obey such orders as he might receive from the Court, or thirteen or more of them or from the secret committee of the court or from the Governor General of Fort William (Calcutta) in India in Council in the same manner as the Government of Fort st. George (Madras) and Bombay.’²⁹

27 C.A.L.R., volume III, Part iv, 1917-1918, Edited by J.B. Lewis and J.M. Seneviratne, Published by Office of the Times of Ceylon, Colombo, pp. 239-256, L.J.B. Turner, *Ceylon under the British Rule, 1795-1932*, Oxford University Press 1933, pp. 8-14.

28 Sir Ivor Jennings and Dr. H.W. Tambiah, *the Dominion of Ceylon, the development of its Laws and Constitution*, London, Stevens and sons Ltd., 1952, p. 9.

29 *ibid.*

thus combining the administration of Ceylon with that of in India.'

North was of the opinion that the officials should be employed by the Crown, but he too complained about the Madras officials. They were from another Presidency and knew nothing of the different conditions of Ceylon. The ultimate result of these proposals was the appointment of a new Commission and Ceylon thus became a Crown colony on 01 February 1802.

The change in the political situation in the island affected the ancient system of local government. The period between 1796 to 1802 was filled up with uncertainty and no measures were taken for the development of local government. Meanwhile the system of Government which was introduced in the maritime provinces in 1802 and which lasted for over thirty years was that of a typical Crown colony. Discussing this new introduction Dr Tressie Leitan states

All legislative, executive and judicial power was vested in a Governor, who was answerable to the Secretary of State for colonies and through him to the British Parliament. There was also a Council of officials which the Governor could consult; since however, he was under no obligation to accept its advice he was able to rule more or less autocratically during the period.³⁰

The history of the modern development begins with the fall of the Kandyan Kingdom in 1815. This was the first time the country was governed under one rule after a period of three long centuries. Hence changes which took place in every field of the Government administration were inevitable.

The period between 1815 and 1856 signifies the unsuccessful attempts made by the Central Government to resuscitate the ancient system of local government in the island. For example, the proclamation of 2nd March 1815, commonly known as the Kandyan Convention, validated the local institutions and their functions. Section 4 of the Proclamation provided:

the dominion of the Kandyan provinces is vested in the Sovereign of the British Empire, and to be exercised through the Governors or Lieutenant. Governors of Ceylon for the time being and their accredited Agents saving to the *Adigas, Dessaves* [Sic], *Mohottales, Coraals* [Sic] *Vidanes* and all other chief and subordinate native headmen lawfully appointed by authority of the British Government, the rights, privileges and powers of their respective officers and to all classes of the people, the safety of their persons and property with their civil rights and immunities according to the laws, institutions and customs established and in force amongst them.

30 Dr. Tressie Leitan, Local Government and Decentralized Administration in Sri Lanka, Lake House Investments, 1974, p. 3.

Section 8 of the proclamation further provided: the administration of civil and Criminal Justice and Police over the Kandyan inhabitants of the said provinces is to be exercised according to established forms and by the ordinary authorities.

Section 11 of the Proclamation declared that the royal dues and revenues of the Kandyan provinces were to be collected with the support of the provincial establishment and according to lawful customs. The *Gamsabhawas* were once again recognized as local judicial authorities, by the charter of justice 1833. According to the charter of justice, 1833, the entire administration of justice, civil as well as criminal, was vested exclusively in the courts constituted by the charter itself.³¹ Further, it directed that the power of the court of vice admiralty and the Piracy Commission court be saved and that the Governor should not establish any other courts in the island. While granting exclusive jurisdiction to the courts constituted by the charter, the proviso of section 4 of the charter directed:

nevertheless, and we do hereby declare that nothing herein contained shall extend or be continued to extend, to prevent any person from submitting their differences to the arbitration of certain of assemblies of the inhabitants of villages known in our said island by the name of *Gangsabes* [Sic].³²

However, in spite of all these attempts to resuscitate this dilapidating system of local government and soon after the country became a Crown colony, *Gamsabhawas* fell into desuetude. The *Rata Sabhawas* were abolished under section 4 of the charter of justice, 1833. The decline of *Gamsabhawas* soon after the change of the Central Government in spite of all the attempts made by the British Governors to revive it, demonstrates the relationship which existed between the ancient local authorities and the Central Government. While the local government institutions gradually disappeared from the administrative structure of the island, the Central Government was taking measures to develop the administrative machinery of the country. As a result of this enthusiasm of the Governors in improving the administration of the country, a commission was appointed under the auspices of major Colebrooke and Charles Cameron. The Colebrooke - Cameron Commission, which was heavily influenced by the Benthamite philosophy of 19th century Britain, recommended changes in the constitutional and administrative machinery of the country. Accordingly, the machinery of the Central Government was reconstituted to make provision for the appointment of an Executive Council of five official members to assist the Governor. However, under the re-organization, the most important introduction was the establishment of a legislative Council of nine official and six unofficial members, the latter appointed on a communal basis, which introduced the principle of including members of the general public in the operations of the government.³³

However, the recommendations of the Colebrooke - Cameron Commission had no influence in resuscitating the dilapidating system of ancient local government. By the

31 Charter of Justice, 1833, Section 4.

32 *ibid.*

33 Dr. T. Leitan, *op. cit.*, pp. 3-4.

end of 1845 there was no such system of local government, as had existed in the pre-colonial period, left in the island. Governor Frederick North was keen in resuscitating the ancient *Gamsabhawas* and it was mainly due to his interests that the Paddy Lands Irrigation ordinance, No 9 of 1856 was passed establishing village councils in the island. This paved the way to the evolution of a modern system of local government in the country.

Conclusion

Local government, as has been pointed out, plays a vital role in the American administrative setup. Similarly it has captured the administrative structure in England. However, it is unfortunate to note that in Sri Lanka, local government has not played a key role in public administration. Nevertheless, unlike in many other countries, other than in England, we have had a system of local government which runs back to the King Pandukabhaya period. This system, it could be argued, evolved through the years, strengthening the local government structure and maintaining the necessity to have a system of local government for good municipal administration. The colonial administration during 1505 - 1948 and the evolution of local government even under foreign rule thus could be presented as a case in point.