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**CENTRALIZATION VERSUS DECENTRALIZATION:
A CASE STUDY, THE MUNICIPALITY OF ALEY,
LEBANON**

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CENTRALIZATION VERSUS DECENTRALIZATION,
A CASE STUDY
THE MUNICIPALITY OF ALEY, LEBANON

By

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CENTRALIZATION VERSUS DECENTRALIZATION,
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TO MY MOTHER

PREFACE

The object of this study is to make a descriptive and analytical survey of Lebanese central-local relationships and controls. The subject is dealt with through a case study of the Municipality of Aley.

This study of local government as manifested in the Municipality of Aley is in line with an increasing attention given nowadays in Lebanon to the development of local government. Thus, one would notice the rate of change that occurred in the Municipality of Aley, reflecting in many instances the new ideas related to strengthening local government and promoting democracy at its grass roots.

It is hoped that similar studies of other municipalities be undertaken so a complete picture of the behavior of local government in Lebanon is fully presented. Nevertheless, this study of the

Municipality of Aley may stand as a good sample of
local government development in Lebanon.

FAWZI F. RAWDAH

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TABLE OF CONTENTS

	Page
PREFACE.	iv
LIST OF TABLES.	ix
LIST OF CHARTS.	x
 Chapter	
I. INTRODUCTION.	1
A. Centralization Versus Decentra- lization	
B. Historical Background	
1. The Ottoman Regime	
2. The French Mandate	
3. The Post Independence Period	
 II. THE MUNICIPALITY OF ALEY.	 27
A. Historical Background	
B. Structure and Functions of the Municipality of Aley	
1. The Determinative Authority	
2. The Executive Authority	
 III. CENTRAL-LOCAL RELATIONSHIPS.	 52
A. Introduction	
B. The Ministry of the Interior	
C. Structure of Field and Local Administration	
1. Al-Muhafaza	
2. The Qada	
3. Al-Baladiya	
4. Al-Mukhtariya	

IV. CENTRAL GOVERNMENT CONTROLS OVER THE MUNICIPALITY OF ALEY - ADMINISTRATIVE CONTROLS. 70

- A. Controls Over the Determinative Authority (The Municipal Council)
 - 1. Creation and Electoral Procedures
 - 2. Meetings of the Municipal Council
 - 3. Resignations of the Mayor and the members of the Municipal Council
 - 4. Resolutions and Actions of the Municipal Council
 - 5. The Dissolution and Suspension of the Municipal Council
- B. Controls Over the Executive Authority (The Mayor and his Assistants)
- C. The Conduct of the Qaimaqam

V. CENTRAL GOVERNMENT CONTROLS OVER THE MUNICIPALITY OF ALEY - FINANCIAL CONTROLS. 106

- A. Laws and Decrees
 - 1. The Public Accounting Law of 1963
 - 2. The Municipal Fees Law of 1967
- B. Officials of the Central Government
 - 1. The Muhafez
 - 2. The Comptroller-General
- C. Agencies of the Central Government
 - 1. The Bureau of Accounts

	Page
VI. CENTRAL GOVERNMENT CONTROLS OVER THE MUNICIPALITY OF ALEY - OTHER CONTROLS.	148
A. Judicial Controls	
1. The Special Administrative Court	
2. The Council of State	
B. Technical Controls	
1. The Civil Organization Research Service	
2. The Municipal Projects Service	
3. The Civil Organization Branches in the Muhafazas	
4. Technical Bureaus	
C. The Central Inspection Commission	
1. The Board	
2. The Central Inspection Administration	
3. The Research and Guidance Administration	
4. The Tenders Administration	
VII. CONCLUSION.	182
APPENDIX.	199
BIBLIOGRAPHY.	210

LIST OF TABLES

Table		Page
1.	Attendance of the Members of the Municipal Council of Aley.	76

LIST OF CHARTS

Chart		Page
I.	Organization Chart of the Executive Authority of the Municipality of Aley.....	48
II.	Organization Chart of Field Units and Local Government in Lebanon.....	55

CHAPTER I

INTRODUCTION

A. Centralization Versus Decentralization.

The question of centralization versus decentralization deals with an understanding of how authority is distributed and exercised in government organizations. Writers and scholars in the fields of Political Science and Public Administration have no precise definition of the concept of authority. It is even confused and used synonymously with the concept of power. Chester Barnard defines authority as the "character of communication (order) in a formal organization by virtue of which it is accepted by a contributor to or "member" of the organization as governing the action he contributes; that is, as governing or determining what he does or is to do so far as the organization is concerned."¹

¹Chester I. Barnard, "A Definition of Authority", Reader In Bureaucracy, ed. Robert K. Merton et al (New York: The Free Press, 1952), p. 180.

Authority means in essence the right to act and take decisions. In our study about centralization and decentralization, special consideration must be given to the levels at which decisions are taken. In this respect, there are usually two levels of governments, namely, central and local in unitary systems, and three levels in federal systems: central, state and local. The local level has a number of tiers that differ from one country to another.² It is important to understand their relationships to one another in order to determine whether a system of government is centralized or decentralized. Centralization, therefore, deals with the exercise of authority by the central government over the state and local governments in federal systems or over local governments or authorities in unitary systems.

Central government is the level of government which is responsible for the relationships with local governments. It is usually the national government in the

²Samuel Humes and Eileen Martin, The Structure of Local Government Throughout the World (The Hague, Netherlands: Martinus Nijhoff, 1961), pp. 13 - 14.

unitary system, while it is the state government in the federal system.

Accordingly, local government is a political subdivision constituted by the central government and authorized to control local affairs, including the power to levy taxes. The governing body of the local government is either elected by the local community or chosen by the central government from the local community concerned.³

Administrative functions and authorities like political ones can be centralized or decentralized.⁴ It would appear, therefore, that centralization is the ability to concentrate the powers and agencies of the government in its central organization.⁵ Under centralization are

³United Nations, Department of Economics and Social Affairs, Division of Public Administration, Decentralization For National and Local Development (St / TOA / M, 19, 1963) (New York, 1963), pp. 88-89.

⁴Leonard D. White, Introduction to the Study of Public Administration (New York: The Macmillan Company, 1946), p. 34.

⁵Ibid., p. 35.

found the centripetal forces that work in an organized community and tend to ensure that the greatest part of its functions is directed from the centre.⁶ Thus, these forces are referred to as uniting forces of control and coordination.⁷

In practice, however, there are two main principles according to which central governments delegate or devolve functions and authority to local officials and local elected authorities.

The first is through deconcentration where the central government delegates authority to its appointed field and local officials in order to carry out definite policies while retaining final control over their functions.⁸ This kind of local government which is part of a centralized system has been called "Local State

⁶J. In't Veld, Centralizing and Decentralizing Tendencies in Present-Day Government Structures, a paper presented at the Seminar on Local Government in the Mediterranean Countries (The American University of Beirut, May 10-15, 1965), p. 1. (Mimeographed).

⁷John M. Pfiffner and Frank P. Sherwood, Administrative Organization (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1960), p. 117.

⁸Harold F. Alderfer, Local Government in Developing Countries (New York: McGraw Hill Book Company, 1964), p. 176.

Government",⁹ or "Local Non-representative Government,"¹⁰ As a matter of fact, it is considered to be a moderate centralization.¹¹ It seems that the main justification for this moderate centralization, is that the central government delegates limited authority and jurisdiction to its appointed local and field officials in order to alleviate the burden of administrative work reaching it from local administrative subdivisions. This is done to facilitate administrative functions.

The second is through decentralization where local units are established by the central government and controlled by freely elected representative bodies or traditional or hereditary officials who are not centrally appointed.¹² Representative bodies may be

⁹G. Montage Harris, Comparative Local Government (London: Hatchinson's University Library, 1948), p. 9.

¹⁰Humes and Martine, op. cit., p. 3.

¹¹Uthman Khalil, Al-Tanzim al-Idari fi Elbilad el'Arabiya, translation of Arabic title, Administrative Organization in Arab Countries (Cairo: El-ahmad Press, 1959), p. 11.

¹²Alderfer, op. cit., p. 177.

considered as territorial communities within the country provinces, municipalities and boards and commissions that are responsible for nationally owned public utilities and industries.¹³ These local units, while subject to the supremacy of the central government, have certain powers, responsibilities, discretions, and jurisdiction of their own. Through these powers they can achieve their own resolutions, judgements and autonomy. This has been called "Local Self Government"¹⁴ or "Communal Autonomy"¹⁵ or "Local Representative Government."¹⁶

In this case, there are two main relations: first, the relation of local governments or units or bodies with the central government, for it must be clear that local self government is not and can not be a complete autonomous entity; otherwise it will be considered a sovereign authority.¹⁷ It follows, therefore, that

¹³H.J. Kruisinga (ed.), The Balance Between Centralization and Decentralization in Managerial Control (Leiden: H & E. Stenfert Kroese N.V., 1954), p. 74.

¹⁴The French term "decentralization" can be considered equivalent to the English term "Local Self-Government", Ibid.

¹⁵Harris, op. cit., p. 9.

¹⁶Humes & Martine, op. cit.,

¹⁷Harris, op. cit., pp. 10 and 134.

despite the fact that local self governments maintain a certain degree of autonomy and discretion, they are subject to central control known as administrative tutelage.¹⁸

Second, the relation of local elected authorities to their communities, and the mutual degree of cooperation between them.¹⁹

In conclusion, centralization and decentralization are a question of degree. They are considered as opposite poles. Neither of them could be the perfect choice for any government at any time. The tendency towards one pole or the other for a certain period of time varies in accordance with the different functions, and the different stages of economic, social and political development.²⁰

In the light of this theoretical framework, the Lebanese system would be examined through a case study of

¹⁸Brain Chapman, Introduction to French Local Government (London: George Allen and Unwin Ltd., 1953), p. 124.

¹⁹Zuhdi Yakan, El-Kanun El-Idari, translation of Arabic title, The Administrative Law (Beirut: 'Asariah Library, 1955), I, p. 258.

²⁰United Nations, op. cit., p. 4.

the extent to which local government in Lebanon is centralized and decentralized.

B. Historical Background.

History provides the significant information about the evaluation of the political administrative system in Lebanon. It shows in reality the nature of the relationships that existed between the various units of government that have ruled in this area. It is appropriate to consider the development that occurred in the local administration of Lebanon in the following three eras: The Ottoman Regime, the French Mandate, and the Post Independence Period.

1. The Ottoman Regime.

The Ottoman government ruled Lebanon from 1517 till 1918. These four hundred years of the Ottoman rule of Mount Lebanon may be divided into three major periods: the feudal period, from 1516 till 1840; the period of the Qaimaqamiyatayn, (the two districts), from 1841 till 1861, and the period of the Mutasarifiyah, from 1860 up to the First World War. It was during the Qaimaqamiyatayn period that Lebanon acquired the local government system that is

still evident in the present Lebanese local government system.²¹

The Ottomans between 1840 and 1864 installed a system similar to that of the French local government model. It is essential to discuss this relationship in order to show plainly the basic features of the French local system.

Between 1839 and 1878 (Tanzimat, or Reorganization and Reform Period), the Ottoman Empire underwent several changes in its administrative laws and procedures in an attempt to keep pace with development and to inject modernization and westernization into its administrative apparatus.²² These reforms and reorganization were influenced by French ideas that prevailed as advanced and new.²³

²¹Adnan Iskander, Bureaucracy In Lebanon (Beirut: American University Press, 1964), pp. 8 - 9.

²²Halide E. Adivar, Turkey Faces West (New Haven: Yale University Press, 1930), pp. 63 - 74.

²³Zein N. Zein, Local Government in the Ottoman Empire, A paper prepared for the Seminar on Local Government in the Mediterranean Countries (The American University of Beirut, May 10 - 15, 1965), p. 4. (Mimeographed).

It is pertinent to mention here that the French local government system is an integral part of the State. Local units are considered to be organs of the central government. Their powers and jurisdiction are granted to them by the central government and are subject to its control in many fields such as police, security, and hygiene. This system of local government is characterized by "centralization, chain of command, hierarchical structure, executive domination, and legislative subordination."²⁴ Hence, the national government in France dominates its administration through a hierarchy of inflexible chain of command and supervision that extends from the apex to the base. This system will be the yard-stick against which we will try to understand and measure the present Lebanese system of local government.

The French local administrative structure was introduced into the Ottoman administration by Resid Pasha in about 1840, and later it was adjusted by Fuad Pasha in 1864.²⁵ Thus, the Ottoman reformers considered the

²⁴Alderfer, op. cit., pp. 6 - 7.

²⁵Bernard Lewis, The Emergence of Modern Turkey (London: Oxford University Press, 1961), pp. 106 & 381.

hierarchy of areas and units plus the field agents that were called Vilayets (Muhafazas in Lebanon). Each Vilayet was administered by a vali, (Prefect: Muhafiz in Lebanon), Qazas (Qadas in Arab countries) each Qada was administered by a Qaimaqam (Subprefect: Qaimaqam in Lebanon) and Nahiyas (Nahiyyahas in Arab countries) each Nahiyya was governed by a Nahiyas Mudeer. However, this division did not exist in Lebanon as was the case in France. Finally, villages were administered by Mukhtars, i.e. headmen.²⁶

This division of power took into consideration the ability of the highest executive authority to control the whole hierarchy, thus bringing this system under central control. Hence, there was a tendency to provide centralization and uniformity.²⁷

However, the above-mentioned hierarical set-up was not immediately and universally applied in the Ottoman Empire. This was due to the differences that prevailed in the various provinces that had their own conditions and

²⁶W. Hardy Wickwar, "Patterns and Problems of Local Administration in the Middle East," Middle East Journal, XII (Summer, 1958), pp. 250 - 251.

²⁷Lewis, op. cit., p. 382.

circumstances.²⁸ Still, with the mentioned local subdivisions, "and with half a century of fitful and fumbling progress in reluctant and too-often misconceived and ill-applied 'reform', came all the familiar phenomena of latter-day Ottoman government."²⁹ Further, the application of these local subdivisions provided a profound knowledge of local psychology, conditions and interests.³⁰

According to the Protocol of June 9, 1861, which was revised in 1864, Mount Lebanon was organized on the following basis of administrative divisions: the mountain was placed under the rule of a Mutassarif who was appointed by the Porte and responsible directly to him. Under the control of the Mutasarif and for administrative purposes, Lebanon was divided into seven Qadas. Each Qada was administered by a Qaimaqam appointed by the Mutassarif and responsible to him. Likewise, each

²⁸Ibid., pp. 382 - 383.

²⁹Stephen Hemsley Longrigg, Syria and Lebanon Under French Mandate (London: Oxford University Press, 1958), p. 15.

³⁰Ibid.

of these Qadas was divided into Mudiriyas. Each Mudiriya was administered by a Mudir who was appointed by the Qaimaqam and responsible to him. Besides, the smallest administrative unit was the village headed by a Sheikh or Mukhtar who was elected by the community and was responsible to the Mudir. This law remained the basis of government and administration of Mount Lebanon until the First World War.³¹ According to what has been mentioned, Mount Lebanon was administratively subdivided like other Mutasarifiyas of the Ottoman Empire.³²

The application of the provisions of the Protocol of 1864 resulted in many defects. Among the important ones was that "a due balance of power as between the central and local governments were never established, suspicion and mutual aversion always prevailed."³³

Evidently, under the conditions just described, there was no direct central-local relationships in connection

³¹Philip K. Hihi, Lebanon In History (London: MacMillan & Co., Ltd., 1957), pp. 441 - 442.

³²Yousif Sawda, Nizam Lubnan Alasasi, the translation of Arabic title, The Basic Law of Lebanon (Beirut, n.d.), pp. 15 - 16.

³³Longrigg, op. cit., p. 15.

with towns and cities because from 1516 to 1877 municipal government in its modern sense, responsible for a town or a city, did not prevail.³⁴

On the fifth of October, 1877 the Ottoman "Vilayet Municipal Law", was promulgated, organizing a modern municipal government. This law was highly affected by the French experience and the Code of Napoleon.³⁵ The law was applied to the Mutasarifiya of Mount Lebanon.

Before discussing the main points of the 1877 Municipal Law, it is essential to mention that the first Municipal Council that was established in the Near Eastern provinces before the promulgation of the Municipal Law of 1877, was in Dair Al-Qamar (a town in Mount Lebanon), in 1863.³⁶ A Municipal Council composed of seven members was elected from among the elders of the town. This

³⁴ Zein, op. cit., p. 2.

³⁵ Walter H. Ritsher, Municipal Government In Lebanon (Beirut: American Press, 1932), p. 1.

³⁶ The text of the decree concerning this Municipal Council issued by the Governor General (The Mutasarif) of Mount Lebanon was published by Al-Hayat (Beirut), December 24, 1964, p. 1.

council was under the chairmanship of the Governor (Mamur) of Dair Al-Qamar. The main functions of the council were to take the necessary steps for the improvement, reformation and cleanliness of their town. A special budget was dedicated to the Municipal Council to carry out this purpose.³⁷

The 1877 law stated that a municipal council was to be constituted in every town and city. Large cities were allowed to have several "municipal circles" according to size and requirements. This law gave municipalities wide jurisdiction, increasing their importance as local entities in such perspectives as social services, public works, health and sanitation.³⁸ Further, the law prescribed certain conditions which limited municipal powers in order to avoid the damage of public interest.³⁹

Municipal councils consisted of six to twelve members according to the size and population of each town and city. They were elected for four years on condition

³⁷Zein, op. cit., p. 4.

³⁸Ibid., p. 5.

³⁹Ibid., p. 10.

that half of the members were changed every two years. From among the elected members, the government appointed the mayor who was paid from the municipal revenues, while the services of other members were honorary.⁴⁰ Twice a year the municipal council had to meet with the Qada Administrative Council, forming the Municipal Assembly. This Municipal Assembly, under the control of local authorities, was empowered to examine, study, and approve the accounts, budget, the expenditure of the past year of the municipal council, public works planned for that year, and the general condition of the municipal council. The results of the meetings were reported to the Vali to be discussed in the General Council of the Willayet. They were considered as the bases for reforms and changes in regulations governing municipal councils.⁴¹ This means that the Central Government, beside other controls, had the power to approve or disapprove in advance all the actions and plans executed by the municipal council. However, it seems that the actual situation of implementing the provisions of the Municipal law was different where

⁴⁰ Ibid., p. 6.

⁴¹ Ibid., p. 9.

as in Syria "the Administrative Councils in districts and municipalities were at best representative only of a small upper class, and chosen by scarcely concealed official nomination; the higher officials were usually Turks; and in spite of the presence of many competent and honest officials, the standards of administration were low, corruption widespread, delays inordinate, confusion general."⁴²

Adversely, under the Ottoman Regime and despite the fact that the 1877 Ottoman Municipal Law provided for an elected municipal council with jurisdiction in many fields of public interests, the municipality was under the stringent control of the Central Government carrying out regulations in the hierarchy of local governments with agents of different ranks and titles governing Mount Lebanon for the Ottoman Sultan.

As a conclusion, the four hundred years, 1517 till 1918, of Ottoman rule of Lebanon provided the basis of the local government system which continues in its

⁴²Longrigg, op. cit., p. 16.

essentials to the present day.⁴³

2. The French Mandate.

After the defeat of Turkey in the First World War, Lebanon and Syria were put under the French Mandate in accordance with article 22 of the Covenant of the League of Nations.⁴⁴

In 1920, French authorities implemented in Lebanon⁴⁵ a centralized system of government under the

⁴³George Grassmuck and Kamal Salibi, Reformed Administration In Lebanon (Beirut: The Catholic Press, 1964), p. 4.

⁴⁴"Certain communities formerly belonging to the Turkish Empire have reached a state of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory. . . . The degree of authority, control, or administration to be exercised by the Mandatory shall, if not previously agreed upon by the members of the League, be explicitly defined in each case by the council." A.H. Hourani, Syria and Lebanon (London: Oxford University Press, 1954), p. 163.

⁴⁵On August 20, 1920, Greater Lebanon was formed with new additional territory enlarging the boundaries of Mount Lebanon. Longrigg, op. cit., p. 123.

supervision of the French High Commissioner who was granted full authority. The High Commissioner appointed a French governor as the head of the executive authority of Lebanon.⁴⁶ Thus, centralization characterized the Lebanese administration.

For local administrative purposes, the field units continued to be the same until 1929 when a new system was implemented.⁴⁷ The Lebanese Republic was divided into five Muhafazas. The Muhafazas were subdivided into eighteen Qadas. Each Muhafaza (province) was governed by a Muhafez and the Qada (district) by a Qaimaqam. These officials were agents of the Central Government and responsible to the Ministry of the Interior.⁴⁸

In 1922, a new municipal law was promulgated. The general framework of this law remained the same as that of the 1877 of Ottoman Municipal Law, but with minor

⁴⁶Grasmuck and Salibi, op. cit., p. 4.

⁴⁷Longrigg, op. cit., p. 202.

⁴⁸Ritsher, op. cit., p. 1.

changes especially in the degree of centralization⁴⁹ where the Central Government exercised more control over municipalities. Under this law, a municipality was governed by an elected municipal council. The head of the municipal council who was appointed by the Central Government from among the councillors for a period of one year, had a dual responsibility as the president of the municipal council and as the agent of the central government.⁵⁰ The Muhafez, the Qaimaqam, and the French counsellors were ex officio members of the municipality.⁵¹

However, in villages and municipalities of 25,000 population and above, the Muhafez or the Qaimaqam acted as the chairman of the municipal council.⁵² In some cases the Qaimaqam was appointed the chairman of the municipal council of the capital of the district as it was the case in Aley.

The municipal law granted wide jurisdictions to the councils of municipalities over local affairs, but the larger part was conditioned always by the consent

⁴⁹Ibid.

⁵⁰Ibid., p. 18.

⁵¹Ibid., p. 12.

⁵²Ibid., p. 16.

and prior approval of the central government.⁵³ All this indicates that the central government was in full control of municipalities.

The nature of the relationships between the central government and local government during the French Mandate was well described by the paragraph which stated that "Municipal affairs are supervised and controlled by the national government through the Ministry of the Interior by means of its administrative officers in the various levels of local government. The Republic is divided into five principal administrative districts, each headed by an appointed administrator (muhafez). The districts are in turn sub-divided into eighteen Kada's each under the administrative control of an appointed Kaimakam. Through French counsellors attached to the more important administrative posts the entire system is brought under the directing authority of the French High Commissioner. All these officials exercise a constant and vigilant surveillance over the municipalities within their jurisdiction with powers even more extensive than those of the projects in France, thus bringing municipal government

⁵³Ibid., pp. 13 - 15.

well within the highly centralized system of national government."⁵⁴

If the actual situation was examined it would appear that there were a hundred twenty six incorporated Lebanese municipalities in 1922. Between 1922 and 1930, forty one municipalities were suppressed and ninety eight were dissolved.⁵⁵ Therefore, it may be concluded that local governments were directly under French control and this resulted in the nominal existence of local powers⁵⁶ especially municipalities. The French had "failed in the event, to establish the sort of governmental regime for which a Mandate calls: a regime fully utilizing local talent, careful to give (and to/^{be}seen to give) priority to local needs, and safeguarding local-self-respect by allowing the maximum exercise of visible powers."⁵⁷

Centralization during the French Mandate was inevitable because for the first time a real system of

⁵⁴Ibid., p. 1.

⁵⁵Ibid., pp. 1, 37 & 40.

⁵⁶Longrigg, op. cit., p. 262.

⁵⁷Ibid., p. 366.

government was established and only the French had the capacity to run affairs; so they could not trust the inhabitants to run their affairs independently. It was also for other reasons related to the position of the French as the mandatory power who needed to be in full control over public affairs in order to avoid resistance and attain peace and stability. Hence, the French Mandatory Regime monopolized political and administrative powers and functions.

3. The Post Independence Period.

After the independence of Lebanon in 1943, administration retained the Ottoman and French characteristics of centralization. The present system of local administrative divisions will be explored and discussed in the third chapter.

Municipal laws underwent a number of changes and modifications.⁵⁸ The first body of rules regulating

⁵⁸The Lebanese Official Gazette (Al-Jarida Al-Rasmiya) is published by the Official Gazette Department which is under the Secretariat General Service in the Prime Minister's Office. This official Gazette is divided into three parts. These are as follows: the

municipal administration in Lebanon was promulgated in 1947.⁵⁹ This law was followed by another on the 31st of October, 1952.⁶⁰ On December 10, 1954, it was replaced by a new law.⁶¹ The 1954 law was applied for nine and a half years, then it was superseded by the law issued on the 29th of May, 1963.⁶² The provisions of this decree still govern the present municipal system in Lebanon.

first part contains laws, legislative decrees, and decisions; the second part contains official advertisements, special advertisements, judicial judgements, and judicial advertisements; finally, the third part contains the minutes of the meetings of the Parliament or Chamber of Deputies. In this thesis, only the first part of the Gazette is used.

⁵⁹The Official Gazette, No. 49, (December 3, 1947), The Municipal Law of November 27, 1947, pp. 722 - 738.

⁶⁰The Official Gazette, No. 45, (November 5, 1952), Legislative decree No. 5 dated October 31, 1952, pp. 879 - 910.

⁶¹The Official Gazette, No. 51, (December 15, 1954), Legislative decree No. 5 dated December 10, 1954, pp. 871 - 901.

⁶²The Official Gazette, Annex to No. 42, (May 29, 1963), Municipal Law No. 29 dated May 29, 1963, pp. 2135 - 2149.

There was a tendency especially during the attempts of administrative reformes in the last decade to bring about certain degree of deconcentration. This was evident in terms of the expressed policies of the government, and in the subsequent changes that were introduced in the Central-Local relationships.⁶³ Among these attempts were the ones aiming at the improvement of the ability of municipalities to discharge functions needed for development. For this reason in 1965 the Central Government organized a National Municipal Conference that aimed to reform local government.⁶⁴

If we examine the Lebanese system of municipal government in the scale of change from the past to the present, it would seem that the system has changed very slowly and in essentials very slightly. It has been through history till the present day that municipal

⁶³The Official Gazette, No. 29, (June 20, 1959), Legislative decree No. 116 dated June 12, 1959, pp. 599 - 607. Also: Ralph E. Crow and Adnan Iskandar, "Administrative Reform in Lebanon," International Review of Administrative Sciences, XXVII (1961), pp. 293 - 307.

⁶⁴Lisan Al-Hal (Beirut), April 16, 1965. Also: Al-Hayat (Beirut), June 2, 1965, p. 8.

movement came from the Central Government and not from local communities. It follows that when the Central Government felt the need for deconcentration and strengthening the role of municipalities to achieve and promote national policies, it increased their jurisdiction while retaining central control over them.

CHAPTER II

THE MUNICIPALITY OF ALEY

A. Historical Background.

The Municipality of Aley, like other municipalities in Lebanon, was governed by laws mentioned in the previous chapter.

Sufficient for our purposes is to start the historical background with the beginning of the mandatory period, especially from the year 1922, when the first Municipal Council of seven members was elected and headed by Dr. Jamil Talhouk.² In 1927, another council was elected and headed by Mr. Mahmoud Talhouk. This council lasted until 1930, when it was replaced by a committee representing land owners in Aley and the surrounding area.

¹The information is found in the expenditure archives and archives of the decisions of the Municipality of Aley. These archives are found in the Administrative Department of the Municipality of Aley.

²The Expenditure Archive of the Municipality of Aley, 1922, p. 29.

This committee was headed by the Qaimaqam of Aley who continued to be in charge of this committee for a long time. This practice consisted of changing members of the committee, but it was still presided over by the Qaimaqam who was the representative of the Central Government. The first Qaimaqam was Al-Emir Tawfic Abi-lamā, who was followed by Mr. Nasri Malat, and later in May, 1934, by Mr. Adib Nahass.³ In March, 1935, Mr. Gabrail El-Aswad was appointed the new Qaimaqam and Mayor of Aley. He was replaced in September, 1941, by Mr. Milad Riskallah and half the members of the committee were replaced by new members.⁴ In June, 1944, Mr. Mahmoud Talhouk succeeded his cousin, Dr. Jamil Talhouk, who became a minister. During October, 1949, Mr. Dair Al-Māoushi was appointed a Qaimaqam, acting as the Mayor of Aley.⁵ The duration of his office was short; hence, after few months, in March, 1949, Mr. Fouad Sawaya, the Muhafez of Mount Lebanon, who was in

³Ibid., pp. 38, 104, 195 and 216.

⁴Archive of the Decisions of the Municipality of Aley, 1939-1946, pp. 59 and 158.

⁵Ibid., p. 221.

charge of the district of Aley, presided over the Municipal Council of Aley as Mayor. This situation changed two months later when Mr. Fouad Khouri was appointed as the new Qaimaqam and Mayor. He remained in office till 1953, when the central authority decided, in accordance with the Municipal Law of 1953, to have a new Municipal Council. Half the members of the council were elected by the inhabitants of Aley, the other half (nine) were appointed from among the property owners in Aley. Dr. Jamil Talhouk was chosen Mayor by general consent.⁶ In January, 1955, Mr. Najib Al-Fakih, was elected Mayor by the same committee. However, his presidency did not last more than a year and Dr. Faghali succeeded him.⁷ Dr. Faghali and his committee remained in office till 1959 when, for reasons prevailing in the town of Aley, the Central Government dissolved the Municipal Council and the Qaimaqam, Mr. Ilias Najim, assumed the responsibility for the municipality. In 1963, Mr. Ibrahim Al-Zoughbi, was appointed as the new Qaimaqam of the district of Aley and was in charge of the Municipality

⁶Archive of the Decisions of the Municipal Council of Aley, 1953-1960, p. 1.

⁷Ibid., p. 132.

of Aley. This lasted till June, 1963, when the present Municipal Council was elected. Recently, the Central Government extended the duration of the Municipal Council for two more years.⁸

It is noticeable from this survey that the Municipal Council was most of the time the committee appointed by the Central Government and headed by the Qaimaqam. The Qaimaqam had a dual role, while representing the Central Government he was trying to run the affairs of the Municipality of Aley. This duality in his functions indicates how much the Central Government had been in full control of the Municipality of Aley, and shows also to what extent the Municipality was run independently by elected bodies.

B. Structure and Functions of the Municipality of Aley.

The legal foundations of the Municipality are not derived from the constitution of 1926, but from the statutory laws issued by the parliament and by regulations

⁸Algarida (Beirut), May 6, 1967, p. 1.

laid down by the competent authorities of the Central Government, especially the Ministry of the Interior.

The Municipality of Aley, like other municipalities, is governed by the law of May, 1963, according to which the Municipality is considered a legal personality enjoying administrative and financial autonomy. It has the power to own property, buy, sell, accept donations, conclude and confirm contracts and sue and be sued before courts.⁹

The Municipality consists of two organs: the Determinative Authority (the Municipal Council), and the Executive Authority that consists of the Mayor assisted by the departments of the Municipality.

1. The Determinative Authority (The Municipal Council).

a) Electoral Procedures.

The Determinative Authority is entrusted to a body of twelve councillors¹⁰ elected by the inhabitants

⁹The Official Gazette, Annex to No. 42, (May 29, 1963), op. cit., Art. 1, p. 2135.

¹⁰They are: Mr. Naim Murad, Mayor, Mr. Farid Kinan, Deputy Mayor, Mr. Anis Jurdi, Mr. Shafic Khalaf, Dr. Amin Abu Rafa, Mr. Rafic Akel, Mr. Farid Al-Rayis, Mr. Younis Shmit, Mr. Najji Hadad and Mr. Mounir Khouri as members.

of Aley for a period of four years.¹¹ The councillors are elected by direct voting and a secret ballot on the basis of the register that is usually used for the elections of the deputies of the Parliament.¹²

A candidate has to satisfy certain legal requirements. The most important among them are: he must be a citizen of the community and on the registry list of electors in the town of Aley; he must not be holding the position of a mukhtar, a member of the councils of the muhafazas (provinces), an employee of the government or municipalities or enterprises and not an employee of a public enterprise which lies within the control of the municipality.¹³ Any candidate who succeeds in the elections and holds any of the above mentioned positions is given the option of holding either position.¹⁴ Furthermore, a candidate is considered disqualified if he is deprived of his civil rights, if he is illiterate, condemned for a crime

¹¹The Official Gazette, Annex to No. 42, (May 29, 1963), op. cit., Art. 36, p. 2139.

¹²Ibid., Art. 12, p. 2137

¹³Ibid., Art. 13 and 14.

¹⁴Ibid., Art. 37, pp. 2139.

or infamous offense, imprisoned due to his belonging to prohibited political parties, under judicial interdiction, and condemned for bankruptcy till he is proved innocent or till he resumes his civil rights.¹⁵ Moreover, close relatives are not allowed to be members of the same municipal council. Close relatives are a father and one of his children, a mother and one of her children, a husband and a wife, a father and a son-in-law or daughter-in-law, brothers and sisters-in-law or niece, and brothers and sisters-in-law. In case this takes place, one of those relatives must resign. If he refuses, the Qaimaqam dismisses the younger.¹⁶

The Municipal Law does not stipulate any sectarian consideration in the composition of the council of the Municipality of Aley. Nevertheless, it has been the practice in the last elections to have eight members from the Druze Community and four from the Christian Community. This sectarian distribution was arrived at through a gentleman's agreement between the inhabitants of the town

¹⁵Ibid., Art. 15, p. 2137.

¹⁶Ibid., Art. 28, p. 2139.

of Aley which also resulted in the election of the president of the Municipal Council from the Druze Community, and the vice president from the Christian Community.¹⁷

The nomination for candidacy is influenced by family considerations and internal politics, but predominantly the role of big families was a determinative factor of the nomination of certain candidates which in turn resulted in the exclusion of able candidates belonging to small families. Thus, the actual election process is governed by the interplay of political, feudal, family and sectarian forces.¹⁸

b. Organization and Procedures of the Determinative Authority (The Municipal Council).

The newly elected Municipal Council in its first meeting had elected Mr. Naim Murad Mayor, and Mr. Farid Kinān a Deputy Mayor for a period of four years.¹⁹

¹⁷ Interview with Mr. Naim Murad, the Mayor of Aley, January 5, 1967.

¹⁸ This is based on my personal experience and observations.

¹⁹ Interview with Mr. Naim Murad, op. cit.

The Municipal Council exercises its jurisdiction by passing resolutions. It is supposed to meet at least once a month upon the request of the Mayor. The summons must state the subjects for discussion, and the Council has no right to deal with other subjects in the meeting. Summons for the meetings must be written and have to be sent to the residence specified by the councillors at least one day prior to the meeting.²⁰ The Mayor presides over the meetings of the Municipal Council, and in absence, the Deputy Mayor takes his place. Still, if the Deputy Mayor is not present, the eldest councillor will head the Municipal Council.²¹ However, at the session devoted to the discussion of the municipal accounts entrusted to the Mayor, the Deputy Mayor or the eldest member presides over the meeting. The Mayor must attend the discussions, but must leave the meeting before voting takes place.²²

All the meetings of the Municipal Council are closed meetings, but the Mayor is empowered to call any

²⁰The Official Gazette, Annex to No. 42, (May 29, 1963), op. cit., Arts. 40, 42, p. 2140.

²¹Ibid., Art. 44.

²²Ibid., Art. 45.

employee or citizen whose presence may be helpful for the municipality's functions.²³ The meetings of the Municipal Council are considered legal when the quorum is constituted by more than half of the councillors. If the quorum is not constituted in the first meeting, another meeting will be convened and a quarter of the councillors constitutes the quorum.²⁴ The records of the Municipal Council of Aley show that the quorum was constituted in 78 meetings out of 103 meetings of the Council up to the 26th of May, 1967.²⁵

The Council takes its resolutions through oral voting. Voting by proxy is prohibited. The Mayor can resort to secret balloting if he deems it necessary or upon the request of the majority of the councillors. In due course, all resolutions of the Council are taken by a majority vote. In case of a tie, the Mayor casts the decisive vote.²⁶

²³Ibid., Art. 46.

²⁴Ibid., Art. 47.

²⁵Archive of the Discussions of the Municipal Council starting July 11, 1963.

²⁶The Official Gazette, Annex to No. 42, (May 29, 1963), op. cit., Arts. 49-50, pp. 2140-2141.

Every October, the Municipal Council begins studying the municipal budget which should be prepared by the Mayor. In case the Municipal Council fails to approve it before the 31st of December, it is submitted as prepared by the Mayor to the Tutelage Authority.²⁷

At the beginning of each year the Council has to elect committees from among its members to study all subjects referred to it. Moreover, the Council can constitute adhoc committees if it so deems necessary.²⁸

The present Municipal Council has assigned responsibility to ten committees whose titles are self explanatory of their duties and responsibilities. These are as follows:²⁹

- 1- The Committee for Planning and Public Works.
- 2- The Verification Committee.
- 3- The Finance Committee.
- 4- The Claims Committee.

²⁷ Ibid., Art. 43, p. 2140.

²⁸ Ibid., Art. 55, p. 2141.

²⁹ Archive of the Discussions of the Municipal Council of Aley starting July 11, 1963, p. 3.

- 5- The Purchasing Committee.
- 6- The Receiving Committee.
- 7- The Sanitation Committee.
- 8- The Public Relations and Traffic Committee.
- 9- The Promotion and Compensation Committee.
- 10- The Tenders Committee.

Beside these committees, the law stipulates the establishment of a committee called the Municipal Committee which should look into the administrative affairs of the municipality, and decides on subjects referred to it by the Municipal Council. Further, the Committee controls tenders and it is authorized to contract the farming of municipal fees according to the conditions mentioned in the concerned laws.³⁰

The idea of having committees is an attempt to provide specialization in the work of the Council. However, these committees did not perform much work even though their titles were somewhat impressive. Their actual functions were performed by the administrative departments.

³⁰The Official Gazette, Annex to No. 42, (May 29, 1963), op. cit., Art. 58, pp. 2141-2142.

This was due to the interest of the councillors in exercising full authority over the affairs of the Municipality, which resulted in their nominal existence. Added to this, there were certain personal reasons that made some members of the Municipal Council distrust others in different committees.³¹

c) Jurisdictions of the Municipal Council.

Every function and service of public character in the realm of the Municipality of Aley falls within the competence of the Municipal Council.³²

Functions and jurisdiction of the Municipal Council can be divided into two main categories:

(i) Direct and Indirect Functions and these are as follows:

1. Preparation of the budget of the municipality for the coming year;

³¹Interview with Mr. Sami Kassis, Head of the Administrative Department of the Municipality of Aley, May 11, 1967.

³²The Official Gazette, Annex to No. 42, (May 29, 1963), op. cit., Art. 59, p. 2142.

2. Determination of the collection of the fees and taxes of the municipality;
3. Supervision of the management of the funds of the municipality;
4. Development of town and country planning, including the construction of roads and public parks;
5. Promotion of better sanitary conditions through the establishment and maintenance of good drainage and sewage systems;
6. Undertaking of power and water projects;
7. Establishment and management of slaughter-houses;
8. Development and utilization of natural resources;
9. Organization of means of transportation.
10. Management and pricing of basic foodstuffs;
11. Organization of the methods of assistance regarding rescue activities, assistance of the poor, and establishment of public shelters.³³

The Municipal Council has also the right within its jurisdictional area to establish and manage directly

³³Ibid., Art. 60.

or indirectly, or take part and assist in the execution of works and projects related to the following areas:

- 1- Public schools, kindergartens, and trade schools;
- 2- Housing and swimming pools;
- 3- Public hospitals and clinics;
- 4- Museums, libraries, theaters, recreational places, and camps;
- 5- Public transit systems; and
- 6- Public markets and storage houses.³⁴

In addition, the Municipal Council is expected to observe and enforce the laws and regulations of the government that deal with health conditions, town planning, construction of houses, and other matters related to the development and utilization of natural resources.

(ii) Consultive Jurisdiction

Central authorities must have the advisory opinion of the Municipal Council in the following matters:

1. Changing the name of the town;

³⁴Ibid., Art. 61.

2. Changing the boundaries of the town;
3. Organizing public transit system;
4. Repairing high ways and extending them to the boundaries of the municipality;
5. Arrangements concerning public aid;
6. Establishing benevolent offices or charitable bureaus; and,
7. In all matters that are specified by regulations that necessitate the consultation of the Municipal Council.

If within the period stated by the Qaimaqam, the Municipal Council fails to render its opinion, the Central Government can proceed without it.³⁵

d) The Conduct of the Municipal Council.

From 1963, the Municipal Council was divided into two groups, one backed by the Mayor and the other by the opposition. The group supporting the Mayor constituted the majority and gave him unconditional support. The group used to meet regularly outside the Municipality; hence, deliberation and decision making mostly took place outside the premises of the Municipal Council. It follows that

³⁵Ibid., Art. 62 and 64, pp. 2142-43.

informally the Mayor used to dominate the Municipal Council, i.e. the Determinative Authority. In the meantime, the minority group attacked the Mayor and his group publicly. The state of dispute reached its climax and was further aided by the siding of the Qaimaqam of Aley with the minority group against the Mayor and his group. Furthermore, the Druze Deputy of Aley worked against the Mayor and used various means to have the Municipal Council dissolved.³⁶

The conflict can be explained by examining the nature of the social, culture and political background of the Lebanese society in general and the community of Aley in particular. It seems that the officials of the government inherited centralization and concentration of authority, and that politicians, especially feudal leaders, want to act as guardians of all forces within the boundaries of their constituencies and thus impose their will. The Mayor and other members of the Council had more liberal ideas and they wanted to be independent in making their decisions. Consequently, the conflict was strong enough

³⁶I have close relations with the Mayor and many members of the Municipal Council. I also have a profound knowledge of the situation prevailing in Aley.

to cause a wide gap between the different parties.

However, that situation motivated the Mayor and his group to secure self-perpetuation. They began to cooperate with other political forces. These forces supported them strongly. Moreover, the Mayor and the majority group used the most energetic and efficient modes of action and work in order to build support among the public.

Recently, some members of the majority group presented their resignation to the Qaimaqam of Aley. The Muhafez of Mount Lebanon intervened and reconciled the members of the Municipal Council and the Mayor with the Qaimaqam.³⁷

As we have seen, the present Municipal Council is subject to personal disputes. Still, the Municipal Council and the Executive Authority headed by the Mayor executed many practical projects.

As a conclusion, internal politics has quite a significant effect on municipality affairs.

³⁷Lisan Al-Hal (Beirut), November 1, 1966, p. 1.

2. The Executive Authority.

This authority is entrusted to the Mayor who is assisted by four departments and a Municipal Committee. These departments are as follows: Administrative Affairs, Health, Finance, and Public Works.³⁸

The Municipality of Aley has the Council-Mayor form of municipal government. That is, the Council has a chairman chosen by the councillors from among themselves. This means that the Mayor is the head of the Determinative Authority. Besides, he is the chief executive officer who has special jurisdiction as follows:

- 1- He prepares and submits the budget to be studied by the Municipal Council in the October session;³⁹
- 2- He carries out the decisions of the Municipal Council;
- 3- He manages the funds and the accounts of the municipality;
- 4- He approves the spending of the municipal budget;

³⁸Interview with Mr. Naim Murad, the Mayor of Aley, May 26, 1967.

³⁹The Official Gazette, Annex to No. 42, (May 29, 1963), op. cit., Art. 43, p. 2140.

- 5- He manages the departments of the municipality;
- 6- He controls the works executed for the municipality;
- 7- He represents the municipality before courts;
- 8- He takes local measures in matters placed under his authority, in particular the followings:

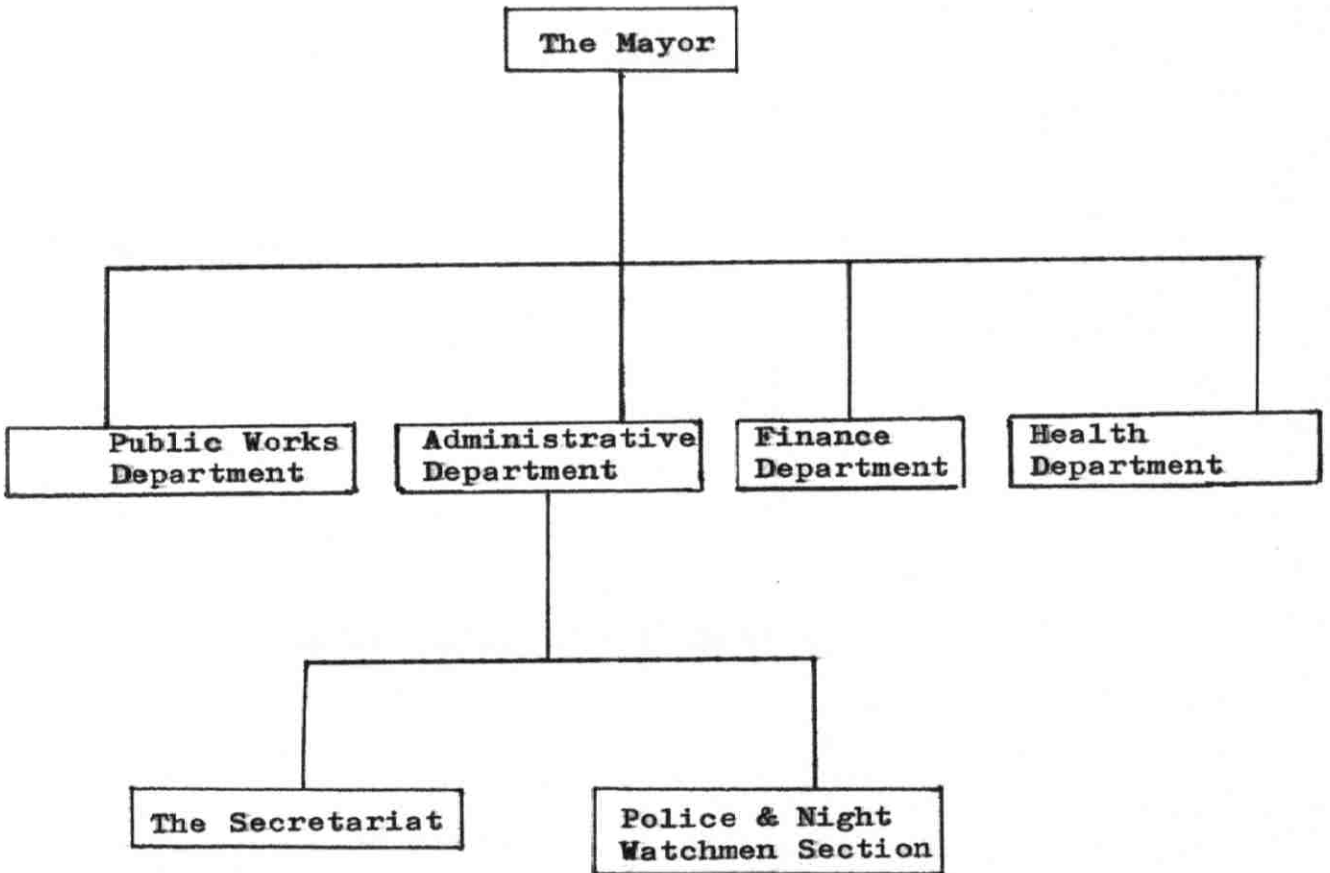
- To take preventive measures against epidemic and contagious diseases.
 - To direct and supervise all actions that preserve security and public health on condition that this does not interfere with the jurisdiction of the departments of the Central Government performing the same work;
 - To facilitate traffic;
 - To assure the removal of debris, and restoring or repairing old buildings;
 - To organize funerals and preserve cemeteries;
 - To deal with all matters concerning public morals;
 - To issue permits to dig canals in public roads in order to extend water, electricity, and gas pipes;
 - To give temporary permits to salesmen in order to exhibit their goods in public places or on the pavements (usually during summer).
 - To suspend construction violating regulations, while providing citizens a fifteen days respite to enable them to consult judicial authorities.⁴⁰
- 9 - To appoint suspend, and dismiss employees with the consent of the Muhafez.⁴¹

⁴⁰ Ibid., Art. 92, p. 2146.

⁴¹ Ibid., Art. 96, p. 2147.

C H A R T I

ORGANIZATION CHART OF THE EXECUTIVE AUTHORITY
OF THE MUNICIPALITY OF ALEY



As it has been indicated, the Mayor is charged with the responsibility of managing and supervising the departments of the Municipality. Checking Chart I, we recognize that it resembles a triangle. At the apex is the Mayor who performs the role of the chief executive and administrator. Lines of authority run directly from the apex to the heads of the departments and from them to their subordinates. This type of organization is a simple one because the organization is considered small. Briefly, the main functions and duties of the Mayor as the chief administrator are: to plan, to organize, to direct (this involves command, coordination, and control), and act as the chief representative of the administration.⁴² In addition to the five functions of administrative management, it follows that the chief administrator has the responsibility of personnel in his municipality. The Mayor has wide jurisdictions in this respect. The Municipality of Aley has its own personnel law that governs all personnel issues.

Citizens are demanding more effective services in many aspects of their society due to the rapid changes and

⁴²Interview with Mr. Naim Murad, the Mayor of Aley, May 26, 1967.

developments that are taking place. Therefore, citizens of Aley contact the Mayor in all matter, pertaining to their interests and the interests of the town as a whole. There is also a general feeling among citizens that the Mayor is accountable for every action of the Municipality. To face this responsibility directly the Mayor, personally, accepts and hears the demands and suggestions of the inhabitants. Nevertheless, the Mayor is aware of the fact that he has to motivate the people in order to help him in executing the plans of the Municipality.⁴³

Due to his present position, the Mayor of Aley finds himself in a difficult position where he has to have a sense of politics in accordance with political forces, family interests, and other pressure groups. Hence, he has to take into consideration the interplay of political pressure. This exposes him to individual and public criticism.⁴⁴

In conclusion, as the head of the Determinative Authority, the head of the Executive Authority, and his significant role with the public and political forces, the

⁴³Ibid.

⁴⁴Ibid.

Mayor becomes the central factor of the Municipality. Accordingly, the Municipality of Aley has a "one man system."

CHAPTER III

CENTRAL-LOCAL RELATIONSHIPS

A. Introduction.

The discussion of central-local relationships has to be started with the formal description of the system, but nevertheless one has to be always aware of the informal forces which operate and affect the administrative behavior.

The Lebanese central-local relationships indicate the channels of communication between the levels and units of the national and local governments. These relationships show the degree of centralization and decentralization in the Lebanese system of government, and they are necessary to a proper understanding of the controls of the Central Government over municipalities.

Municipalities in Lebanon are established by the Central Government. Therefore, they are subject to its policies and directives. It follows that the

next crucial role performed by the Central Government is to see through various means to what extent the provisions and requirements of its laws and regulations are put into effect and to insure that they are being complied with. Hence, the enforcement of these laws and regulations compels the Central Government to undertake control and supervision through its ministries and agencies using certain methods and means that are common to the normal relationships between a higher level of government and a lower one. It is the belief of the Central Government that this may ultimately result in insuring the rule of its laws and hence its sovereignty over the country.¹ Therefore, the Municipality of Aley functions within the framework of central controls.

It is appropriate to start discussing in detail the formal and informal relations between the Municipality of Aley and the Central Government. Hence, the general framework of the Lebanese central-local relationships is the basis that should be explored and

¹Interview with Mr. Ibrahim El-Zughbi, the Qaimaqam of Aley, November 6, 1966.

studied. However, it is important to point out that many municipal problems resulting from central-local relationships vary from one municipality to another.

This legal framework involves proper understanding of the role of the Ministry of the Interior which represents the Central Government in relationship to local governments.

B. The Ministry of the Interior.

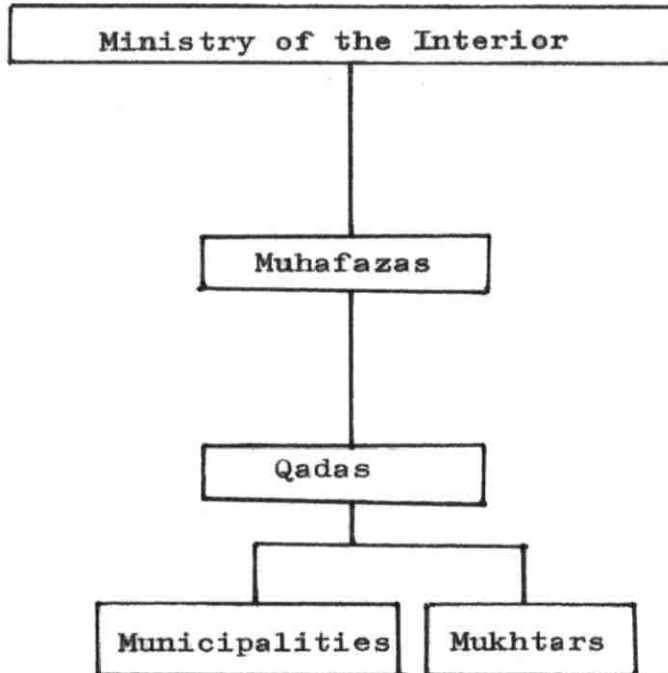
The Ministry of the Interior is responsible for all local activities in Lebanon, so it supervises and controls the affairs of the muhafazas (provinces), qaimaqamiyas (districts), villages and associations.² Thus, it forms the apex of local administrative structure.³ It is concerned with the coordination and execution of internal policies in Lebanon. Besides its responsibility for the preservation of order and security,

²The Official Gazette, No. 68, (December 28, 1959), Decree No. 2867 dated December 16, 1959, Art. 1, pp. 2045 - 2046.

³Check Chart II.

C H A R T II

ORGANIZATION CHART OF FIELD UNITS AND
LOCAL GOVERNMENT IN LEBANON



it manages domestic affairs, prisons and Palestinian refugee affairs.⁴

The Ministry of the Interior is composed of: the Directorate General for the Interior, the Directorate-General for Domestic Affairs, the Common Administrative Service, the Directorate-General of Internal Security Forces, the Directorate of Public Security,⁵ and the Directorate-General for Palestine Refugee Affairs.⁶

The Directorate-General for the Interior is divided into the Diwan (Secretariat), Political and Administrative Services, Motor Vehicles Registration Service, and the Municipal and Village Affairs Department.⁷ It is evident that this is the department that is responsible for assuring the implementation of the laws and regulations that govern local and municipal affairs. In particular it is responsible for the

⁴The Official Gazette, No. 68, (December 28, 1959), op. cit., Art. 1.

⁵Ibid., Art. 2.

⁶The Official Gazette, No. 14, (April 1, 1959), Legislative Decree No. 42 dated March 31, 1949, pp. 249 - 250.

⁷The Official Gazette, No. 68, (December 28, 1959), op. cit., Art. 4.

following functions: it cooperates with the competent authorities that are concerned with the progress and welfare of villages in order to develop existing standards; it supervises and examines the resolutions taken by the Councils of the Muhafazas (Provinces), Municipal Councils, Mayors and other local authorities that are under the control of the Ministry of the Interior; it participates in the administration of the Development Fund (Sandouk El-Tajhizat) and the General Municipal Fund; finally, it is responsible for ensuring liason between local authorities and the Civil Organization Directorate (City Planning) at the Ministry of Public Works.⁸

The supreme controlling authority is the Ministry of the Interior; however, the Ministry of the Interior is by no means the only central connection with municipalities. There are many ministries and national agencies that have some sort of linkage with municipalities. Relations between municipalities and national ministries or other public agencies are conducted through the Ministry of the Interior. Accordingly,

⁸Ibid., Art. 7, p. 2047.

the Ministry of the Interior plays a crucial role in providing the necessary relationship and it is the effective authority that can achieve coordination between the various organizations.

C. Structure of Field and Local Administration.

Under the supervision and control of the Ministry of the Interior, there are four types of local authorities.

The present Lebanese territory is divided into five Muhafazas (Provinces), namely: Beirut, North Lebanon, Mount Lebanon, South Lebanon and the Biqa. These Muhafazas are subdivided into twenty three Qadas (Districts).⁹ Each Qada consists of a number of cities, towns and villages which may have elected local authorities called municipalities (Baladiyat). However, each village and town has one or more Mukhtars who are considered the lowest level in the local hierarchy.

In studying central-local relationships, it is necessary to discuss the basic functions of the different

⁹The Official Gazette, No. 29, (June 20, 1959), op. cit., Art. 57, p. 606.

local authorities and their relations to each other.

1. Al-Muhafazah.

The Muhafazah is headed by a Muhafez (Prefect) who is responsible for the administrative affairs of the Muhafazah. He is appointed by the Council of Ministers upon the recommendation of the Ministry of the Interior on condition he meets the requirements for the positions of Grade I in the Lebanese administration. The Muhafez holds the first rank among all local officials in the Muhafaza.¹⁰ He administers the various units of the Central Government,¹¹ of the Muhafaza by giving directives and inspecting activities. He also grants the administrative and health leaves and imposes punitive measures according to the civil service regulations.¹² Correspondence between the central authorities and the

¹⁰ Ibid., Art. 3, 5 and 6, p. 600.

¹¹ These field units represent the ministries of the Interior, Justice, Finance, Agriculture, Social Affairs, Public Health, Public Works, National Education, National Economy and Post, Telephone and Telegraph. The offices of the above mentioned central ministries are functionally attached to their headquarters in Beirut while under the administrative jurisdiction of the Muhafez in the Muhafaza. Ibid., List No. 2, pp. 607-604. Amended by: The Official Gazette, No. 56, (December 30, 1961), Decree No. 8346 dated December 30, 1961, pp. 1653-1656.

¹² The Official Gazette, No. 29, (June 20, 1959), op. cit., Art. 4 & 7, p. 600.

field and local authorities is carried on through the Muhafez.¹³

His other major duties are those of maintaining order and security, and protecting personal freedom and private property in the Muhafaza. He is responsible for the implementation of all national laws, regulations, and instructions in his Muhafaza.¹⁴ Also, he watches over the general political and economic conditions of the Muhafaza. In this connection, he submits to the Ministry of the Interior a monthly report as well as other reports that may be deemed necessary.¹⁵ He takes the necessary measures in order to enforce public health regulations as stated in the laws. Moreover, he plays a significant role in the educational field. In this respect, his advice is sought in establishing or abolishing all kinds of public schools in his Muhafaza. Moreover, the Muhafez assists the Ministry of Education in providing adequate buildings, supplies and the necessary

¹³Ibid., Art. 7

¹⁴Ibid., Art. 8 and 10, pp. 600 - 601.

¹⁵Ibid., Art. 9.

equipment needed for schools.¹⁶ In addition to the above mentioned jurisdiction and other minor duties and functions,¹⁷ the Muhafez handles a number of activities that may be delegated to him by higher authorities of the Central Government.¹⁸

As the head of the Muhafaza, the Muhafez has many responsibilities concerning the Qadas. Thus, the Muhafez has to call the Qaimaqams in his Muhafaza to a meeting at least every three months in order to study the conditions and needs of their regions, and to give them the necessary instructions. Accordingly, the Muhafez submits at least once every three months, or whenever the need arises, a comprehensive report about the conditions of the Qadas. In these reports he has to include his recommendations, and then send them to the central authorities concerned.¹⁹

¹⁶ Ibid., Art. 17 - 20, p. 602.

¹⁷ Ibid., Art. 12 and 14, p. 601 and Art. 15-16.

¹⁸ Ibid., Art. 21, p. 602.

¹⁹ Ibid., Art. 23 - 24.

Finally, the Muhafez acts as the Qaimaqam of the central Qada of his Muhafaza.

Each Muhafaza has an advisory council called the Council of the Muhafaza. This Council is headed by the Muhafez and composed of the following members: the Director of Finance of the Muhafaza, all the Qaimaqams of the Muhafaza and two representatives from every Qada appointed by a decree of the Muhafez for a period of four years.²⁰

The Council is entrusted with the following functions: it studies all the matters that are related to the improvement of the economic, agricultural, social and health conditions of the Muhafaza; it prepares projects for the needed apportionment of funds to develop villages that do not have municipalities; it supervises the execution of projects and public works that have to be implemented in the Muhafaza; it advises in the preparation of the budget of the Municipal Development Fund; finally, at the request of the Muhafez, it gives advice to him on all matters and affairs of the Muhafaza.²¹

²⁰ Ibid., Art. 47, p. 605.

²¹ Ibid., Art. 48.

The Council meets at least once a month or whenever it is necessary, upon the request of its chairman.²²

2. The Qada.

The Qada is administered by a Qaimaqam who is appointed by the Council of Ministers upon the recommendation of the Minister of the Interior granted that the occupant meets the requirements necessary for filling positions of Grade III of the Lebanese Public Bureaucracy. Nevertheless, the law stipulates that the Qaimaqam should be a graduate of the Public Administration and Foreign Affairs section in the National Institute of Public Administration, and has been in the cadre of the Ministry of the Interior for at least one year.²³ The Qaimaqam enjoys the same responsibilities granted to the Muhafez in respect to his Qada. It follows that he holds the first rank amongst all local officials in the Qada. He represents all the national ministries in the Qada with the exception of the ministries of National Defense and Justice. He is the administrative head of the Qada,

²² Ibid., Art. 51, p. 606.

²³ The Official Gazette, No. 7, (February 14, 1962), The Law dated February 7, 1962, Art. 29, p. 254.

and consequently he supervises and administers the various field units of the Central Government in the Qada.²⁴ Also, he gives the employees their administrative and health leaves, and imposes punitive measures according to the Civil Service regulations.²⁵

Correspondence between the Qaimaqam and the ministries or his superiors is carried on through the Muhafez. Also, all orders and instructions issued to the Qaimaqam are issued by the Muhafez or through him.²⁶ Hence, the Qaimaqam is under the immediate subordination of the Muhafez.

The Qaimaqam maintains order and security, and protects personal freedom and private property in

²⁴These are the offices representing the ministries of the Interior, Justice, Public Health, Finance and Agriculture. These administrative units are functionally attached to the centre of the concerned Muhafaza and to their headquarters in Beirut. The Official Gazette, No. 29, (June 20, 1959), op. cit., List No. 2, pp. 607 - 609. Amended by: The Official Gazette, No. 56, (December, 30), op. cit., pp. 1653 - 1656.

²⁵The Official Gazette, No. 29, (June 20, 1959), op. cit., Art. 28, p. 603.

²⁶Ibid., Art. 30.

the Qada. He is responsible for the execution of all national laws, regulations and decrees in the Qada. Also, he watches over the general political and economical conditions of the Qada, and thus he has to inform the Minister of the Interior about these conditions every month, or whenever it is necessary. In addition to a number of other detailed functions and responsibilities,²⁷ the Qaimaqam has to perform a number of duties delegated to him by the various ministries.²⁸

As the head of the Qada, the Qaimaqam inspects all the areas of the Qada that are under his control at least twice a year in order to be informed about the conditions of his Qada. To achieve this purpose he listens to the needs and demands of the people. Then he should submit a comprehensive report about the conditions prevailing in the Qada to the Muhafez.²⁹

3. El-Baladiya (The Municipality).

Each Qada consists of a number of towns and villages. However, not all towns and villages acquire

²⁷Ibid., Art. 31-44, pp. 603-605.

²⁸Ibid., Art. 28, p. 603.

²⁹Ibid., Art. 45, p. 605.

municipal status because they do not fulfill certain requirements.

Municipalities are local governments. Their functions, duties and responsibilities were fully discussed in the previous chapter. It is only necessary here to point out their status in relationships with the Central Government authorities. They are the next in line to the Qada authorities and they constitute the link between the communities and the Central Government authorities. However, municipalities are not part of the Ministry of the Interior and therefore it suffices to just point out their organizational connection between the field units of the Central Government and the Communities. Nevertheless, an extensive study of the role of municipalities has been covered in the previous chapter and will be further discussed from the point of view of the degrees of centralization and decentralization that are prevalent in Lebanon.

4. El-Mukhtariya.

Each community and every village in Lebanon which has a population of more than fifty persons is

administered by an elected Mukhtar. Towns that have a population above three thousand persons are divided into areas and quarters. Each area and quarter is administered by a Mukhtar.³⁰ The Mukhtars are assisted by elected Majalis Ikhtiyariyah (Councils of Elders). The Mukhtars and Councils form the lowest level of the Lebanese local hierarchy, and they are under the authority of the Ministry of ^{the} Interior.³¹

The Mukhtar is the chairman of the Majlis Al-Ikhtiyariyah.³² This Majlis (Council) aids the Mukhtar in all matters dealing with the welfare of the community, and in facilitating the affairs of citizens. Many papers and transactions that require the signature of the Mukhtar are subject also to the counter signature of a member of the Majlis in an attempt to provide the necessary checks.³³

³⁰The Official Gazette, No. 49, (December 3, 1947), The Law of November 27, 1947, Art. 1-3, p. 739.

³¹Ibid., Art. 4-21, pp. 739-740.

³²Ibid., Art. 24, p. 741.

³³Ibid., Art. 22 & 23, pp. 740 - 741.

The Mukhtar is entrusted with many significant functions and duties related to the fields of public administration, security, domestic affairs, finance, justice, real estate, agriculture, public health and education. However, the most applicable functions of the Mukhtar are concerned with issuing good conduct, identification, marriage, birth and death certificates.³⁴

This is a survey of the organizational arrangement in relation to the central and local authorities which need elaboration upon in connection with the existing relationships that exist between central and local authorities and the Tutelage Authority of the Central Government. It is apparent that there are two levels in this Central-Local relationship that should be studied, namely, the level of the Central Government and its representatives who are the Minister of the Interior, the Muhafez and the Qaimaqam that constitute the Tutelage Authority. The other level consists of municipalities with its relationships with the Tutelage Authority.

³⁴Ibid., Art. 25 - 33, pp. 741 - 742.

The Central Government through its various field units exercises a certain amount of control and influence over local affairs. Thus, controls that are exercised by the Central Government over municipalities and in particular over the Municipality of Aley could be classified into the following types: Administrative controls, Financial controls, and other controls. These controls will be studied in the following chapters.

CHAPTER IV
CENTRAL GOVERNMENT CONTROLS OVER
THE MUNICIPALITY OF ALEY-ADMINISTRATIVE
CONTROLS

A. Controls Over the Determinative Authority (The Municipal Council).

1. Creation and Electoral Procedures.

The Municipality of Aley, like other municipalities, was established by a decree issued by the Minister of the Interior upon the recommendation of the Muhafez.¹

Every four years the electors of Aley elect their Municipal Council.² Elections have to take place on a Sunday. It starts at 8:00 a.m. and ends at 4:00 p.m. of the same day.³ Municipal electoral constituencies are

¹The Official Gazette, Annex to No. 42, (May, 1963), op. cit., Art. 2, p. 2135.

²Ibid., Art. 36, p. 2139.

³Ibid., Art. 21, p. 2138.

called to the election by the Minister of the Interior taking into consideration the recommendations of the Muhafez. The date and place of the election are stipulated in the decree. This decree should be posted in the municipal area fifteen days prior to the date of elections.⁴ Candidates for the Municipal Council must submit written applications to the Qaimaqam ten days prior the elections signed by them and confirmed by a Notary Public. The application must be attached to a fiscal receipt of the amount of L.L.50 which must be issued by the treasurer of the Qada or the Muhafaza.⁵ This deposit is not returned to the candidate unless he obtains twenty five percent of the votes in the elections or if the candidate withdraws his nomination at least three days prior to the election. This withdrawal must be indicated in a written application to the Qaimaqam.⁶

The candidate must be given a receipt for his application within a period of three days from the date of submitting his application. If the competent authority refuses to acknowledge his nomination within the prescribed

⁴Ibid.

⁵Ibid., Art. 16, p. 2137.

⁶Ibid., Art. 17.

period, the candidate can appeal to the Council of State. The Council has to give its final decision within a period of three days.⁷

The electoral process is controlled by a commission presided over by a chairman who is appointed by a decree of the Muhafez at least three days prior to the election.⁸ Two members of the commission are chosen by the chairman himself and the other two are selected by the voters present in the balloting center at the time. The Muhafez appoints a number of clerks in order to help the commission in performing its work.⁹

After the announcement of the preliminary results of the elections, the chairman of the commission prepares a report on the elections. He ratifies the report with other members of the electoral office and the report is sent immediately to the committee that is constituted in accordance with Article 14 of the Parliament Law. This Article states that a committee shall be constituted of a Judge as president and one of the mayors in the concerned

⁷Ibid., Art. 19.

⁸Ibid., Art. 22, p. 2138.

⁹Ibid., Art. 23.

district or a member of a municipal council and a domestic affairs employee as members.¹⁰ After careful study the committee states the final results in a report. A copy of the report is posted on the main door of the Government House, and another copy is sent to the Ministry of the Interior. Moreover, a copy is sent to either the Muhafez or the Qaimaqam.¹¹

To contest the results of the elections in an attempt to nullify them, a candidate must petition the Council of State within a period of fifteen days after their announcement.¹²

Once the election takes place, the Muhafez or the Qaimaqam calls a meeting for the election of the Mayor and his Deputy.¹³ The process of election takes place under the supervision of the Qaimaqam.¹⁴

¹⁰The Official Gazette, No. 18, (April 27, 1960), Law dated April 27, 1960, Art. 14, p. 309.

¹¹Ibid., Art. 31, p. 2139.

¹²Ibid., Art. 34.

¹³Ibid., Art. 39.

¹⁴Interview with Mr. Ibrahim El-Zughbi, the Qaimaqam of Aley, November 6, 1966.

2. Meetings of the Municipal Council.

Despite the certain degree of independence enjoyed in the procedures of the municipal meetings as has been shown in the second chapter, the Tutelage Authority exercises a certain degree of control over them.

It has been mentioned that meetings of the Municipal Council are held in private, but the Muhafez or the Qaimaqam can attend without the right to vote.¹⁵ In this connection, the Muhafez or the Qaimaqam did not attend any of the meetings of the present Municipal Council of Aley.¹⁶

The Mayor enjoys a degree of freedom in calling the Municipal Council to meetings, but he has to call for a meeting upon the request of the Muhafez and the Qaimaqam. Furthermore, he has to discuss an exceptional case when the Muhafez or the Qaimaqam deems that necessary.¹⁷

¹⁵The Official Gazette, Annex to No. 42, (May 29, 1963), op. cit., Art. 46, p. 2140.

¹⁶Interview with Mr. Sami Kassis, the head of the Administrative Department, the Municipality of Aley, October 12, 1967.

¹⁷The Official Gazette, Annex to No. 42, (May 29, 1963), op. cit., Art. 48.

If a councillor is absent from three successive meetings without satisfactory reasons, the Mayor must convey this to the Qaimaqam. The Qaimaqam will evaluate the reasons and will terminate the office of the councillor if he deems it justified. However, within ten days starting from the day of receiving the decision of the Qaimaqam, the councillor can contest the decision before the Council of State in order to refute it.¹⁸ In this respect, the problem of extreme absenteeism of many members of the Municipal Council of Aley¹⁹ is not solved because the law provides a loophole: a termination of office takes place when a councillor is absent from three successive meetings without submitting valid reasons. In order to correct such a deficiency, the present law should be changed to provide that a termination of office would take place if a councillor is absent from any three meetings where he fails to submit satisfactory reasons.

3. Resignations of the Mayor and the members of the Municipal Council.

Resignations of the Mayor, his Deputy and any councillor are addressed to the Muhafez and sent through

¹⁸ Ibid., Art. 56, p. 2141.

¹⁹ Check Table 1.

TABLE 1

ATTENDANCE OF THE MEMBERS OF
THE MUNICIPAL COUNCIL OF ALEY^a

Meetings from July 11, 1963 till May 26, 1967.

Members of the Municipal Council	Complete No. of meetings	in Per- centage	No. of at- tendance of each member	in percen- tage
Naim Murad	103	100	69	67
Farid Kinan	103	100	77	75
Naji Hadad	103	100	77	75
Chafic Khalaf	103	100	32	32
Amin Abu Rafā	103	100	26	25.5
Farid Al-Rais	103	100	37	36
Halim Halima	103	100	75	73.5
Younis Shmit	103	100	59	57.5
Said Shayb	103	100	57	55.5
Anis Al Jurdi	103	100	74	72
Rafik Akel	103	100	89	86.5
Munir Khouri	103	100	86	83.5

^aLebanon, The Municipality of Aley, Archive of the Discussions of the Municipal Council starting July 11, 1963.

the Qaimaqam. The resignation is considered effective and final when the Muhafez approves it. In case the Muhafez fails to give an answer, a new resignation will be considered final and effective one month from the date of despatch by registered mail.²⁰

4. Resolutions and Actions of the Municipal Council.

All the resolutions of the present Municipal Council are subject to the prior approval of the Tutelage Authority.²¹ Thus, resolutions that have executory power only after their approval by the Tutelage Authority are:

a) Those that are subject to the approval of the Qaimaqam. They are as follows:²²

- 1- The municipal budget;
- 2- Municipal fees and taxes;
- 3- Acquisition of immovable property when the cost does not exceed the value of L.L. 20,000;

²⁰The Official Gazette, Annex to No. 42, (May 29, 1963), op. cit., Art. 57.

²¹Ibid., Art. 65, p. 2143.

²²Ibid., Art. 67.

- 4- Rent contracts whose annual returns do not exceed L.L. 2,000;
- 5- Insurance of municipal buildings;
- 6- Acceptance and refusal of gifts which are given or bequeathed to the Municipality and do not put it under any obligation;
- 7- Financial assistance to the poor people, clubs, and social and educational societies;
- 8- Establishment of tariffs and transportation fees;
- 9- Purchase of supplies whose cost does not exceed the value of L.L. 10,000;
- 10- Undertaking of public works whose cost does not exceed the value of L.L. 1,000 and cannot be divided into sub-projects on a trust basis;
- 11- Collection of taxes, fees, and confiscation of funds of proprietors who have refused to pay their taxes in time; and finally,
- 12- All other municipal resolutions which are not covered by the tutelage authorities of the Muhafez and the Ministry of the Interior.

This indicates the important role of the Qaimaqam in relation to the Municipality of Aley.

b) Those that are subject to the approval of the Muhafèz. They are as follows:²³

1- Supplies and public works whose total values range between L.L. 10,000 and L.L. 50,000;

2- Public works whose values exceed L.L. 2,000 and cannot be divided into sub-projects on a trust basis;

3- Purchase of properties whose values range between L.L. 20,000 and L.L. 50,000;

4- Sale of municipal properties whose values do not exceed L.L. 25,000;

5- Settlements of conflicts and disputes;

6- Acceptance or refusal of gifts that do not obligate the Municipality. However, if the gifts are liable to be lost or spoiled, the Mayor has the right to receive them before the approval of the Muhafèz which may be obtained later;

7- Rent contracts whose annual returns exceed L.L. 2,000; and finally,

8- Using a municipal property for a special purpose after it has been used in the public interest.

²³Ibid., Art. 68.

c) Those that are subject to the approval of the Minister of the Interior. They are as follows:²⁴

- 1- Decrees that establish permanent regulations such as the formulation of a personnel law;
- 2- Loans and extraordinary expenditures that are included in the ordinary budget;
- 3- Supplies and public works whose values exceed L.L. 50,000;
- 4- Sale of municipal properties that exceed the value of L.L. 25,000;
- 5- Public works on trust basis when the amount exceeds L.L. 2,000;
- 6- Construction of roads, public parks, zoning, and changing names of avenues and streets; and finally,
- 7- Creation of a municipal syndicate.

All municipal resolutions and correspondence must be sent to the Qaimaqam or through him.²⁵

According to the distribution of authority between the Minister of the Interior, the Muhafez, and

²⁴Ibid., Art. 69, p. 2144.

²⁵Ibid., Art. 74.

the Qaimaqam over the resolutions of the Municipal Council of Aley, it is recognized that the Tutelage Authority is distributed along three levels: the Minister of the Interior, the Muhafez, and the Qaimaqam where "through these levels, it is meant to introduce the notion of checks and balances in as far as each superior level can review measures taken by the inferior one and demand reconsideration if deemed necessary. This leads, no doubt, to a higher degree of conformity with law and justice."²⁶

The procedure of approving any municipal resolution takes place in the following manner: the head of the Executive Authority, i.e., the Mayor, despatches the resolutions of the Municipal Council to the Qaimaqam within a week from the date of its issue.²⁷ In this connection, the approval of the Tutelage Authority must be through written ratification of the resolutions.²⁸ If within fifteen days the Tutelage Authority does not indicate its

²⁶Halim Fayad, My Experience as a Kaimmakam, a paper presented at the Seminar on Local Government in the Mediterranean Countries (The American University of Beirut, May 10-18, 1965), p. 2. (Memeographed).

²⁷The Official Gazette, Annex to No. 42, (May 29, 1963), op. cit., Art. 52, p.2141.

²⁸Ibid., Art. 70, p. 2144.

formal approval or disapproval, the Mayor has to send a written request to the Qaimaqam inquiring about the resolutions. If the Mayor does not receive an answer from the Qaimaqam after ten days from the date of his request, then the resolutions are considered valid. Nevertheless, the Mayor has to inform the Qaimaqam that the concerned resolutions are considered executory in accordance with the provisions of the 1963 Municipal Law. Resolutions concerning planning, the budget and those that are subject to the control of the Bureau of Accounts are excluded from the above conditions.²⁹

In order to grant the Tutelage Authority with absolute control without leaving any gap of discretionary powers to the Municipal Council, the law provides that the Muhafez or the Minister of the Interior is empowered to suspend any municipal resolution that has been previously approved for security purposes. Even so, the decision of suspension must be reasonable.³⁰ Moreover, in case the Municipal Council or the Mayor refuses or neglects to perform any action prescribed by given laws

²⁹Ibid., Art. 71 & 72.

³⁰Ibid.

and regulations or the written instructions of the Qaima-qam or the payment of compulsory expenditures, the Qaima-qam will send to the Municipal Council or the Mayor a written order to execute the action within the prescribed period. If the assigned period passes and the Council or the Mayor fails to perform its duties then the Qaima-qam has the right, after securing the consent of the Muhafez, to assume the powers of the Municipal Council or the Mayor in order to issue the required resolutions and orders. However, these resolutions are not considered executory unless approved by the responsible level of the Tutelage Authority.³¹ In other words, the Mayor and the Municipal Council are compelled to follow the provisions of directives and instructions.

Concerning the Municipality of Aley, this authority was used once by the Qaima-qam, but his decision was suspended because of consequences that would lead to severe disputes between the Qaima-qam and the Municipal Council of Aley. In another case, the Muhafez of Mount Lebanon threatened to use the same authority.³²

³¹Ibid., Art. 75.

³²Interview with Mr. Sami Kassis, head of the Administrative Department of the Municipality of Aley, August 21, 1967.

Finally, the approved, disapproved and suspended resolutions of the Minister of the Interior, the Muhafez and the Qaimaqam may be contested in the Council of State.³³

It has been shown that the Tutelage Authority has the right to review the resolutions of the Municipal Council of Aley; hence, the Central Government through its representatives approves or disapproves of resolutions made by the Municipal Council. Such a review by the Tutelage Authority is a legal one because it prevents the Municipal Council of Aley from making resolutions in an illegal manner and in taking actions in matters that fall outside its competence. Nevertheless, the review may prevent the Municipal Council from making resolutions and taking actions in matters which in the opinion of the Tutelage Authority are contrary to the declared policies and the general interest of the Central Government even though they are within the legal limits of authority of the Municipal Council.

5. The Dissolution and Suspension of the Municipal Council.

The control of the Tutelage Authority in this respect is divided into two main parts: first, dismissal

³³The Official Gazette, Annex to No. 42, (May 29, 1963), op. cit., Art. 73.

and suspension of the individual members of the Municipal Council. If the Mayor or his Deputy or any other member is sued in penal courts or for an infamous offense, the Muhafez can suspend him until a judgement is made by the concerned courts. If the final decision of the courts condemns him as guilty in connection with a crime or infamous offense, the official in question is considered dismissed and the Muhafez has to ratify this decision. Otherwise, he is returned to his former position.³⁴

Moreover, the Muhafez has the right to suspend the Mayor or his Deputy or any other member of the Council whenever circumstances of administrative investigations so require. The member remains suspended until the Muhafez deems that prevailing conditions have ceased to exist.³⁵

Finally, the Mayor or his Deputy or any member of the Municipal Council who is in charge of the Executive Authority and has shown extreme negligence or big blunders is dismissed by the decision of the Muhafez upon the recommendation of the Central Inspection Commission or the

³⁴Ibid., Art. 84, p. 2145.

³⁵Ibid., Art. 86, p. 2146.

decision of the Special Disciplinary Council.³⁶ However, the Mayor or his Deputy or any councillor who is in charge of the Executive Authority is referred to the Special Disciplinary Council by decision of the Muhafez upon the recommendations of the Qaimaqam in accordance with the results of his investigations or through the decision of the head of the Central Inspection Commission.³⁷ The Special Disciplinary Council is constituted by a decree upon the recommendation of both the Ministers of Justice and the Interior and after taking the opinion of the Civil Service Commission of:

- 1- A judge as president (he must be at least of grade ten),
- 2- An employee of the Civil Service Commission as a member (he must be at least of grade three),
- 3- An employee from the Ministry of the Interior as a member (he must be at least of grade three),
- 4- An Inspector from the Central Inspection Commission as the representative of the government.³⁸

³⁶ Ibid., Art. 85, p. 2145.

³⁷ Ibid., Art. 88, p. 2146.

³⁸ Ibid., Art. 87.

The punitive measures that may be taken by the Special Disciplinary Council against the Mayor or his Deputy or a councillor are: warning or reproaching or suspension from office for a period not exceeding one year, or dismissal.³⁹

Second, the dissolution of the Municipal Council as a whole body. The Municipal Council is dismissed by the Minister of the Interior upon the recommendation of the Muhafez in case the Council neglects to perform its duties or when the Council continually commits serious violations which may result in harming the interests of the Municipality. However, the negligence and infractions or violations must be confirmed through written reports that are made by the Qaimaqam or the Muhafez.⁴⁰ Furthermore, the Municipal Council is considered automatically dissolved in the following cases: collective resignation ; when the Council of State considers the election illegal; if the Central Inspection Commission so recommends; and finally; if the ratio of the collected revenues fall short of half the estimated revenues of the fiscal year. In this connection,

³⁹ Ibid., Art. 89.

⁴⁰ Ibid., Art. 81, p. 2145.

the dissolution decision is issued by the Muhafez.⁴¹

In case the Municipal Council is dissolved a new council has to be elected within two months of dissolution in accordance with the provisions of this law. However, the law stipulates that if the dissolution occurs in a period less than six months of the officially expected period for holding the general elections, the Minister of the Interior is empowered to charge the Muhafez or the Qaimaqam to take over the affairs of the Municipal Council during that period.⁴²

As a conclusion, the Municipal Council is subject to the strict control of the Tutelage Authority.

B. Controls Over the Executive Authority (The Mayor and his Assistants).

All the decisions of the Mayor, including administrative and personnel decisions, have to be approved by the Tutelage Authority. However, certain developments

⁴¹Ibid., Art. 80.

⁴²Ibid., Art. 82.

have taken place recently concerning this point.⁴³

In the first place, the Municipal Law of 1963 does not mention that the decisions of the Mayor are subject to the control of the Tutelage Authority. Accordingly, the Legislative and Consultive Commission in the Ministry of Justice has indicated in many of its consultations that since the Mayor represents the Executive Authority which is responsible for implementing the approved resolutions of the Municipal Council, then the decisions of the Mayor that are taken to execute the resolutions of the Municipal Council are not subject to the prior approval of the Tutelage Authority.⁴⁴ The Ministry of the Interior intends to reconsider this provision and the new municipal law may involve such a condition.⁴⁵

⁴³Interview with Mr. Naim Murad, the Mayor of Aley, October 12, 1967.

⁴⁴All the decisions of the Municipal Council of Aley, national ministries and public agencies that are mentioned in this thesis are found in the files of the Administrative Department of the Municipality of Aley. The Ministry of Justice, the Legislative and Consultive Commission, Decision No. 1088. (December 20, 1967).

⁴⁵Interview with Mr. Naim Murad, the Mayor of Aley, October 12, 1967.

In the second place, the Municipal Council of Aley delegated some of its legislative powers to the Mayor concerning the entering of a contract through a declaration or a bill within the prescribed limits of Article 156 of the public Accounting Law. In this respect, any decision which is taken by the Mayor must be submitted to the Municipal Council for later approval.⁴⁶ However, the provisions of Article 156 of the public Accounting Law state that it is permissible to make a contract according to a declaration or a bill if:

- 1- Its value does not exceed L.L. 5,000;
- 2- The prices of the materials to be purchased are fixed in a list of prices prepared by the administration concerned or a well known international organization and it is difficult to obtain lower prices;
- 3- If the contract deals with renting public work machines in accordance with a public tariff.⁴⁷

⁴⁶The Municipal Council of Aley, Decision No. 235 (January 3, 1966).

⁴⁷The Official Gazette, Annex to No. 104, (December 31, 1963), Decree No. 14969 dated December 30, 1963, Art. 105, p. 5656.

The Ministry of the Interior approved the decision of the Municipal Council of Aley after the consultations with both the Bureau of Accounts and the Ministry of Justice.⁴⁸ Moreover, the decisions of the Mayor concerning these new powers are not subject to advance approval by the Tutelage Authority.⁴⁹

These new power provided the Mayor with the essential flexibility in order to perform many significant affairs of the Municipality of Aley.

In the third place, the granting of new powers to the Mayor with regard to the personnel of the Municipality of Aley. This leads us to discuss the controls of the Tutelage Authority and the Central Government over the personnel of the Municipality of Aley.

Employees of the Municipality of Aley are divided into two groups. First, employees that are subject

⁴⁸The Ministry of the Interior, The Department of Municipal and Village Affairs, Decision No. 1084 (February 24, 1966).

⁴⁹Interview with Mr. Naim Murad, the Mayor of Aley, October 12, 1967.

to the compensation fund; second, employees that are not subject to the compensation fund. Every employee who holds a permanent position is considered a member of the first group.⁵⁰ On the other hand, every employee who holds a position based on daily salary, and every individual who performs urgent work or definite work or limited work for a specific period paid on a monthly or daily basis from funds which are provided through fiscal assignments in ordinary budgets or supplementary budgets are in the second group and their positions are considered temporary ones.⁵¹

Permanent positions are divided into classes, each class into grades and each grade into degrees in accordance with the cadre of the Municipality.⁵² The law states the requirements for every grade.⁵³ However, employees of the Municipality of Aley are appointed,

⁵⁰The Municipality of Aley, Law dated August 30, 1957, Art. 1 & 2, p. 1. (in the files of the Administrative Department).

⁵¹Ibid., Art. 3.

⁵²Ibid., Art. 4.

⁵³Ibid., Art. 6-10, pp. 1 - 2.

dismissed and suspended by a decision of the Mayor which is subject to the approval of the Muhafez.⁵⁴

Employees are appointed on the basis of examinations. The Mayor fixes the date of the examination, its place, conditions, subjects, and the date limit for presenting the applications on condition it is not less than fifteen days and he must announce this in three local news papers.⁵⁵ Examinations take place before committees appointed by the Muhafez⁵⁶ because the Civil Service Commission has no authority over the personnel of the Municipality.⁵⁷ Results of the examinations are posted at the entrance door of the Municipality of Aley.

However, appointment by decree is not considered legal and executory if it contradicts the rules of the

⁵⁴The Official Gazette, Annex to No. 42, (May 27, 1963), op. cit., Art. 96, p. 2147.

⁵⁵The Municipality of Aley, Law dated August 30, 1957, Art. 12, p. 3.

⁵⁶Ibid., Art. 13.

⁵⁷Interview with Mr. Sami Kassis, the head of the Administrative Department, the Municipality of Aley, August 20, 1967.

personnel law or other personnel regulations or if the municipal budget does not provide funds allocated for that purpose.⁵⁸

Every employee is entitled to promotion to a higher degree in his grade after the passage of two complete years from the date of his appointment except in the two following cases: when the General Disciplinary Council delays his promotion, and when the Mayor decides to delay his promotion for one year because the reports of his superiors show that he was not performing his duties properly.⁵⁹

The duties and responsibilities of the employees of the Municipality of Aley are governed by the organizational regulations and legal principles of public position.⁶⁰ Thus, every employee who abuses his position or fails to carry out his duties is liable to punitive measures. These punitive measures are of two degrees, as follows: reproach, fines equal to the salary for a period

⁵⁸The Municipality of Aley, Law dated August 30, 1957, Art. 18, p. 3.

⁵⁹Ibid., Art. 20.

⁶⁰Ibid., Art. 22, p. 4.

not exceeding thirty days, and disciplinary transfer. These measures of the second degree are as follows: to delay promotion for a period not exceeding two years, to demote the degree or the grade of the employee, suspension without payment for a period not exceeding six months, and to dismiss from service.⁶¹

Punitive decisions of the first degree are taken by the Mayor, while decisions of the second degree are taken by the General Disciplinary Council. This is because the employees of the Municipality of Aley are placed under the control of the General Disciplinary Council of the State.⁶² The Council is attached to the office of the Prime Minister. The Council is constituted by a president and two permanent members appointed by a decree issued by the Council of Ministers. A general inspector from the Central Inspection Commission represents the government at the Council.⁶³

An employee of the Municipality of Aley is referred to the General Disciplinary Council by a decision of the

⁶¹ Ibid., Art. 23.

⁶² The Official Gazette, No. 39, (May 15, 1967), Decree No. 7236 dated May 8, 1967, Art. 7, p. 697.

⁶³ The Official Gazette, No. 81, (October 11, 1965), Law No. 54/65 dated October 2, 1965, Art. 13, p. 1347.

Mayor. The Inspection Committee of the Ministry of the Interior can also refer an employee to the Council directly and without the approval of the Mayor.⁶⁴

The procedure of the trial takes place as follows: the representative of the government studies the file of the case and then requests all necessary information from the accused employee. As a matter of fact, he must submit his report to the president of the General Disciplinary Council within a month of the date of receiving the file.⁶⁵ Within a week of receiving the file, the president of the Council has to call the Council for a meeting. The meetings of the Council are not considered legal unless all the members are present.⁶⁶

The accused employee has the right to examine all the papers concerning his case in order to defend himself. However, he can ask the help of one lawyer during his trial, but he must be present personally. In case of his

⁶⁴The Municipality of Aley, Law dated August 30, 1957, Art. 24-25, p. 22.

⁶⁵The Official Gazette, No. 39 (May 15, 1967), op. cit., Art. 12, p. 698.

⁶⁶Ibid., Art. 16.

absence, the Council will inform him for the second time.⁶⁷ After that the Council will proceed to take its decision in accordance with the results of its investigation. The General Disciplinary Council has to judge the case within two months after receiving the file of the representative of the government.⁶⁸ Decisions of the Council are taken by majority vote.⁶⁹

The administration of the Municipality of Aley has to execute the decisions of the General Disciplinary Council which are binding, and the employee who is discharged can not be returned to his position. Also, any employee who is dismissed by the Council may not be employed in the Municipality.⁷⁰

The disciplinary lawsuit is independent from the public rights lawsuit, and a public rights lawsuit does not rule out the disciplinary lawsuit.⁷¹ Moreover

⁶⁷Ibid., Art. 25 - 26, p. 699.

⁶⁸Ibid., Art. 37, p. 700.

⁶⁹Ibid., Art. 35.

⁷⁰The Municipality of Aley, Law dated August 30, 1957, Art. 34 - 35, p. 6.

⁷¹Ibid., Art. 36.

every employee is sued in penal courts if his actions are an offense that is indicated in the punitive law or other executory laws. If the offense takes place during the employee's service, judicial pursuance is effective only when the appointing authority of the defaulting employee or the injured citizen ask for that. However, in all cases, the prosecutor-general has to acquire the consent of the administration of the Municipality of Aley before penal procedure is taken.⁷²

Then the law clarifies the conditions of leave of absence, salaries, compensations, end of service and compensation of dismissal from service.⁷³ At this stage, the discussion must be limited to avoid the details of the law in order not to lose sight of our basic purpose.

The rules governing the first category of employees have been just mentioned, while the employees who are not subject to the compensation fund have their own regulations.

⁷²Ibid., Art. 37 - 38, pp. 6 - 7.

⁷³Ibid., Art. 67 - 152, pp. 10-21.

An employee in the second category or group is appointed and dismissed by decision of the Mayor.⁷⁴ However, these decisions are subject to the approval of the Muhafez.⁷⁵ Employees in this category are governed by the regulations that deal with emergency work.⁷⁶ The law specifies their compensation, termination of service, etc.⁷⁷

The controls of the Tutelage Authority over the personnel regulations of the Municipality of Aley went through three stages of development.

The first stage, where all the decisions concerning personnel administration were subject to the approval of the Muhafez; the second stage, where all personnel decisions, except those of appointing, dismissing and suspending, were subject to the approval of the Qaimaqam. During the first and second stages more

⁷⁴Ibid., Art. 154, p. 22.

⁷⁵The Official Gazette, Annex to No. 42, (May 27, 1963), op. cit., Art. 96, p. 2147.

⁷⁶The Municipality of Aley, Law dated August 30, 1957, Art. 156.

⁷⁷Ibid., Art. 156 - 165, pp. 22 - 23.

than half the decisions concerning transfer, with holding, substitution and rewards were refused by the Tutelage Authority.⁷⁸

The third stage started about nine months ago when a conflict took place between one of the municipalities in Lebanon and the Tutelage Authority. The municipality concerned claimed that the Tutelage Authority had no right to approve all personnel decisions because the Municipal Law of 1963 indicated that only appointing, dismissing and suspending decisions have to be approved by the Muhafez. The case was raised to the Legislative and Consultative Commission in the Ministry of Justice. After deliberation, the decision of the commission was that only appointing, dismissing and suspending decisions are subject to the prior approval of the Muhafez, whereas all other personnel decisions are not subject to the prior approval of the Tutelage Authority.⁷⁹

⁷⁸Interview with Mr. Sami Kassis, the head of the Administrative Department, the Municipality of Aley, October 12, 1967.

⁷⁹The Ministry of Justice, The Legislative and Consultative Commission, Decision No. 1008 (January 20, 1967).

Accordingly, after the acceptance of the Ministry of the Interior of the opinion of the Legislative and Consultative Commission, the Mayor who acts as the head of the administrative authority, began to enjoy new wider powers and jurisdiction over the employees of the Municipality of Aley.

C. The Conduct of the Qaimaqam.

At this stage of our survey, and before discussing other controls, special attention must be given to many significant facts concerning the relationships between the Mayor and the Qaimaqam.

In most cases, there were serious divergences of opinion between the Qaimaqam and the Mayor. There is ample of evidence that disputes started with personal conflicts between them. Accordingly, the Qaimaqam used his formal and informal powers to dissolve the Municipal Council in Aley in an attempt to hold new elections. In order to achieve this purpose, he cooperated with the political rivals of the Mayor. Besides, he began to delay the ratification of municipal resolution or to refuse them because they were illegal or

did not comply with laws and instructions.⁸⁰ However, the Qaimaqam denied this and accused the Mayor of spreading rumors against him.⁸¹

In this respect, the Qaimaqam had exaggerated in his statements. As a matter of fact, I have obtained some significant evidence after reviewing all the essential documents and resolutions, evidence which is sufficient to induce belief that the Qaimaqam was not innocent. Accordingly, I can firmly state that the Qaimaqam used certain means in order to hinder the work and duties of both the Determinative and Executive Authorities of the Municipality of Aley. In the draft of this thesis I have indicated in detail the means that were used by the Qaimaqam in order to support the above mentioned fact, but in order to avoid such details I will indicate the sources that made me arrive at the above conclusion.⁸²

⁸⁰ Interview with Mr. Naim Murad, the Mayor of Aley, September 9, 1966.

⁸¹ Interview with Mr. Ibrahim Alzughbi, the Qaimaqam of Aley, November 6, 1966.

⁸² All the following decisions, circulars and directives of the Municipal Council of Aley and the ministries and agencies of the Central Government are found in the files of the Administrative Department of the

The above mentioned behavior of the Qaimaqam is a subtle abuse of power because he tried to utilize legal powers in order to satisfy his personal interests which is an end that contradicts the real intention of his position. Moreover, these were the reasons that persuaded the Mayor to complain against the Qaimaqam to the Central Inspection Commission. Till the present day, the Commission is investigating the complaint in order to determine the accountability of both the Mayor and the Qaimaqam.⁸³ Further, the Mayor sought the protection and help of politicians, deputies, ministers

Municipality of Aley: The Municipal Council of Aley, Decision No. 197 (July 29, 1966), Decision No. 199 (July 28, 1966), Decision No. 200, 202, 203, 204, 216, 265 (August 3, 1966), Decision No. 540 (June 7, 1966), Decision No. 117 (July 31, 1965), Decision No. 137 (April 16, 1966), Decision No. 87 (May 20, 1965) and Decision No. 102, 109, 187 (April 5, 1965). Also: The Ministry of the Interior, Circulation No. 5032 (August 10, 1966); the Muhafez of Mount Lebanon, Directive No. 8263 (September 7, 1966), the Muhafez of Mount Lebanon, Decision No. 8044 (September 28, 1965) and Decision No. 7714 (August 27, 1965); finally, the Ministry of Justice, the Legislative and Consultative Commission, Decision No. 742 (November 25, 1966).

⁸³Interview with Mr. Sami Kassis, the Secretary General of the Municipality of Aley, October 12, 1967.

and officials of the Central Government in an attempt to stay in office. Accordingly, he kept his position. Also, most of the problems of the Municipality of Aley were solved through what can be called personal hierarchy that exists side by side with the formal hierarchy. This is of course a general statement, but personal relations have their magic influence in the actions of the Municipality of Aley. In order to support this fact, an example may be mentioned. When the present Muhafez of Mount Lebanon, Mr. Ghalib Al-Turk, came to office, he arranged for a meeting during which the Qaimaqam and the Mayor ended their grave and serious disputes. Besides, he refused the collective resignations of the majority of the councillors, and reconciled the different groups.⁸⁴ As a result, the relations between the Mayor and the Qaimaqam are now excellent and the Qaimaqam is reluctant to hinder any resolution of the Municipal Council of Aley.⁸⁵

⁸⁴Lisan Al-Hal (Beirut), November 1st, 1966,
p. 2.

⁸⁵Interview with Mr. Naim Murad, the Mayor of Aley, September 9, 1967.

During the conflict between the Mayor and the Qaimaqam many educated elements in the town of Aley became discouraged and frustrated as a result of the actions of their Municipality and the representatives of the Central Government. Thus, they began to lose interest in both institutions.⁸⁶

⁸⁶I have heard this from a number of citizens who criticized the conduct of both the Qaimaqam and the Mayor.

CHAPTER V

CENTRAL GOVERNMENT CONTROLS OVER THE MUNICIPALITY OF ALEY - FINANCIAL CONTROLS

Raising and spending money is one of the most significant problems that face municipalities. Broadly speaking, municipal governments in most countries of the world lack the necessary funds; accordingly, they seek financial aid and assistance from their national governments.¹

The problem of finance plays a major role in the policy formation and administration of the Municipality of Aley. Hence, the absence of financial independence leads to financial controls over the actions of a financial nature.

The finance and financial procedures of the Municipality of Aley are regulated by central laws and decrees, while the execution of the provisions of these

¹Harris, op. cit., pp. 109-33.

laws are controlled by officials and agencies of the Central Government in order to check whether the members of the Municipal Council and the employees of the Municipality of Aley are functioning in accordance with government laws.

The discussion of financial controls will be limited briefly to the main central laws that regulate the finance and financial procedures of the Municipality of Aley, and then the controls that are exercised by officials and agencies of the Central Government over the actions of the Municipality of Aley.

A. Laws and Decrees.

Among the main laws and decrees that regulate finance and financial procedures are:

1. The Public Accounting Law of 1963.

The finance and financial procedures in the Municipality of Aley are governed by the public Accounting Law in all matters that do not contradict the Municipal Law.²

²The Official Gazette, No. 66, (December 19, 1919), Decree No. 2838 dated December 14, 1959, Art. 1, p. 1901.

The Public Accounting Law describes the legal procedures of preparing, executing and closing the accounts of the Lebanese budget. Furthermore, the Law fixes the procedures of administering public funds.³ The Law defines public funds as the funds of the state, municipalities, all public enterprises that are subject to the control of the state or municipalities and the funds of all persons that have public capacity.⁴

In the Public Accounting Law, the execution of the budget is divided into four parts:

a) The collection of the revenues. This part describes the legal regulations for imposing taxes and fees. Then it indicates the conditions of collecting them. In addition, the Law states the ways of collecting debts and of selling government real estate.⁵

b) The execution of expenditures. Every transaction should pass through the following steps: the

³The Official Gazette, Annex to No. 104, (December 30, 1963), op. cit., Art. 1, p. 5632.

⁴Ibid., Art. 2.

⁵Ibid., Art. 32-52, pp. 5637-40.

request for appropriation, authorization of the appropriation, issue of a permit for the payment, and payment of the appropriation. The law indicates the legal procedures and conditions for taking the fore-mentioned steps.⁶

c) This part fixes the conditions of the payment of appropriations that are considered legal without a draft. Moreover, it discusses the loans of the budget as permanent and urgent loans. Where as permanent loans are given to public enterprises in order to assure their expenditures for the current year, and the urgent loan is given to public enterprises or to particular individuals to finance an expenditure which is not recurrent.⁷

d) Special regulations concerning the expenditures for equipments, work and services.

The purchase of equipment and the execution of works and services are performed either through contracts between the administration and other groups or directly by the administration on a trust basis. Contracts are

⁶Ibid., Art. 54-92, pp. 5640-45.

⁷Ibid., Art. 93-110, pp. 5645-47.

based on public bidding; still, contracts can be made through agreements/^{or} soliciting offers or according to a statement or a bill.⁸ The law states the conditions that govern each of them.⁹ The Municipality of Aley has to abide by the detailed procedures concerning biddings.¹⁰

Principles of accounting in the Municipality of Aley are subject to the rules of Public Accounting Law. Moreover, the law describes in detail the jurisdiction and functions of the accountants, treasurers and tax collectors.¹¹

Under the rules of accounting in municipalities, the Municipal Law of 1963 indicates that the rules for applying the Public Accounting Law and especially Article 247, will be fixed by a decree.¹² However,

⁸ Ibid., Art. 120, p. 5649.

⁹ Ibid., Art. 124-157, pp. 5649-57.

¹⁰ Interview with Mr. Fouad Abi Alama, the Comptroller-General of the Municipality of Aley, August 18, 1967.

¹¹ The Official Gazette, Annex to No. 104, (December 30, 1963), op. cit., Art. 166-218, pp. 5658-64.

¹² The Official Gazette, Annex to No. 42, (May 27, 1963), op. cit., Art. 111, p. 2148.

Article 247 mentions that the particulars of applying the Public Accounting Law and especially that part which concerns the accounts, its principles, stipulations, organization of its archives, lists, declarations, drafts, documents that are mentioned in the laws and the periods within which fiscal transactions must be completed will be fixed by a decree upon the recommendations of the Minister of Finance.¹³ Moreover, under special rules for municipalities, the law states that decrees will be issued in accordance with the recommendations of the ministers of the Interior and Finance that will determine the conditions of applying the Public Accounting Law in municipal affairs.¹⁴

None of these essential organizational decrees was promulgated by the authorities concerned.¹⁵ That is, the Legislative and Executive Authorities in Lebanon left many loopholes. These loopholes have resulted in

¹³The Official Gazette, Annex to No. 104, (December 30, 1963), op. cit., Art. 247, p. 5667.

¹⁴Ibid., Art. 240, p. 5666.

¹⁵Interview with Mr. Fouad Abi Alama, the Comptroller-General, the Municipality of Aley, August 18, 1967.

complicating the law; hence these laws are not clearly understood. This fact is regarded as a weakness because it is causing the overlapping of jurisdiction and functions of different public authorities.

2. The Municipal Fees Law of 1967.

One of the main points of interest in connection with the finance of municipalities is the sources from which they can obtain the needed revenues for their expenditure. Here emerges the importance of the Municipal Law of Fees and Taxes that regulates such revenues.

The new law governing municipal fees describes and determines the taxes and fees of municipalities, the regulations of levying them, the legal procedures of objecting to these fees and their terms, and finally, public agencies and associations that are exempt from such fees.¹⁶

These taxes and fees are divided into four types:

¹⁶The Official Gazette, No. 66, (August 17, 1967), Legislative Decree No. 68 dated August 5, 1967, pp. 1352-72.

- a) Taxes and fees that are collected directly by the Municipality of Aley;
- b) Taxes and fees that are collected by the Central Government for the Municipality;
- c) Surtaxes and fees that are collected by public agencies or private concerns; and finally,
- d) Other taxes and fees.

This means that the Municipal Fees Law determines the scope of revenues of the Municipality of Aley. Whereas, the law provides a system of taxation under which the Central Government collects for the sake of the Municipality of Aley a portion of its revenues, and by allowing the Municipality to raise money locally but with limitations prescribed by the law.

In the following few pages, the second and third kinds of taxes and fees will be discussed in detail because they are collected by the Central Government and its agencies, and thus they put many obligations on the government towards the Municipality of Aley and other municipalities. Moreover, they are considered an indication of the states' control over the revenues of the Municipality of Aley. However, this does not mean that

the fees and taxes that are collected by the Municipality of Aley are not under the control of the Central Government. This is due to many facts, among which are the followings: taxes and fees are defined and prescribed by the Central Government and this means that the Central Government decides the level of taxation; the Municipal Law of Fees describes the legal procedures of levying these fees; the Public Accounting Law defines the jurisdiction of tax collectors, while the Comptroller-General and the Tutelage Authority are authorized to check if taxes and fees are collected in compliance with the laws and regulations concerned; and finally, in case the Municipality fails to collect one thousand Lebanese pounds, it will be deprived of taxes and fees that are collected by the Central Government for municipalities,¹⁷ while the Municipal Council is considered automatically dissolved if the ratio of the collected revenues or taxes falls short of half the estimated revenues of the fiscal year.¹⁸

¹⁷The Official Gazette, Annex to No. 42, (May 27, 1963), op. cit., Art. 3, p. 2136.

¹⁸Ibid., Art. 80, p. 2145.

Still, the Municipality of Aley enjoys a certain degree of independence in this respect because in practice the Comptroller-General and the Tutelage Authority are not exercising their powers at present.¹⁹ Therefore, the taxes and fees that are collected by the Municipality of Aley are included in the appendix in order to show the informal powers of the Municipality.²⁰

b) The following taxes and fees are imposed and collected by the Central Government for the Municipality of Aley;²¹

1- A surtax of 3% of the net taxable income is added to proportional buildings tax, and another surtax of 10% is added to the progressive buildings tax;

2- A surtax of 10% of the tax on inheritance, wills and gifts. However, taxes on unalienable religious properties and endowment properties are excluded from this tax;

¹⁹ Interview with Mr. Fouad Abi Alama, the Comptroller-General, the Municipality of Aley, August 18, 1967.

²⁰ ^{the} Check/Appendix .

²¹ The Official Gazette, No. 66, (August 17, 1967), op. cit., Art. 67-71, pp. 1361-62.

3- A surtax equivalent to 15% of the tax on business, industrial and non-business profits;

4- A surtax of 5% is added to the real estate registration fee;

5- A surtax is added to the fuel costs as follows: P.L.4 on every litre of gasoline and P.L.2 on every litre of kerosene;

6- The Customs Department imposes for the sake of municipalities a port fee on imports by both air and sea equivalent to 3.5% of their value;

7- The Customs Department levies for the sake of municipalities, in addition to the port fee, the following surtaxes on imports:

- P.L. 30 on every litre of all kinds of beer.

- P.L. 50 on every litre of alcoholic drinks such as gin, whiskey, champagne, ect... that have less than 25% alcoholic content.

- L.L. 2.5 on every litre of alcoholic drinks that contains between 25% and 35% alcohol.

- L.L. 3 on every litre of alcoholic drinks that have more than 35% alcohol.

- P.L. 1 on every quarter of a litre of mineral water, lemonade, and other non-alcoholic drinks.

- P.L. 5 on every net kilogram of all kinds of imported fish and meat;

8- A surtax of 35% on the fees imposed on all kinds of private cars;

9- A tax is imposed on insurance premiums, excluding life insurance premiums, which is equivalent to 6% of the value of the premiums. Insurance companies collect the tax and at the end of the year they must pay the revenue to the state treasury.

c) Surtaxes and Fees that are collected by public agencies and private concerns are as follows:²²

1- A surtax of 10% of the value of telephone bills is added to these bills. The department concerned collects the surtax and pays the revenue to the municipality every three months;

2- A surtax equivalent to 10% is imposed on electricity bills when the monthly value of each bill exceeds LL.10. This surtax is reduced to 5% for power consumed by industry;

²²Ibid., Art. 72-76, pp. 1362-63.

3- A surtax of P.L. 5 is added to every packet of cigarettes, tobacco, tombac and per cigar when the price per unit is not less than P.L. 75. The administration concerned collects the surtax and pays it to the state treasury at the end of every year;

4- A surtax equivalent to 3% of the advertisement fee charged by T.V. companies is added to every advertisement. Every T.V. company collects this surtax and pays it monthly to the state treasury;

5- A surtax on locally consumed refreshments as soda and soft drinks equivalent to P.L. 0.5 per bottle. The Revenue Department in the Ministry of Finance is responsible for collecting this tax.

In 1966, around 58% of the revenues of the Municipality of Aley were collected by the Central Government.²³ As a matter of fact, the Municipality of Aley relies heavily on the central taxation in order to finance its expenditure. Even so, considerable amounts in fees and taxes are collected directly by the Municipality of Aley.

²³ Interview with Mr. Hassan Baz, the head of the Finance Department, the Municipality of Aley, April 23, 1968.

To sum up, this system of municipal taxation can be considered a semi-centralized system where the Central Government defines and assesses the taxes, and both the Municipality of Aley and the Central Government collect the taxes levied.

B. Officials of the Central Government.

1. The Muhafez.

When discussing the role of the Muhafez in this respect, one principal aspect will be dealt with: the approval of the budget. The audit of the accounts of the budget and its execution will be discussed under the functions of the Bureau of Accounts and the Comptroller-General.

The budget of the Municipality of Aley can be defined as a comprehensive estimate of revenues and expenditures of the Municipality for one year. Before October of every year, the Mayor prepares the draft of the estimated budget. This draft is sent to the Municipal Council for deliberation at its October session. However, if the Municipal Council fails to approve the budget before December 31, then it is submitted as it was prepared

by the Mayor to the Muhafez for final approval.²⁴ Hence, the budgets of the Municipality of Aley must have the approval of the Muhafez. This leads to a discussion of the functions of the Comptroller-General who controls the implementation of the budget.

2. The Comptroller-General.

All municipal budgets that are under the jurisdiction of the Public Accounting Law are subject to the control of a Comptroller-General who is appointed by a ministerial decree upon the recommendation of the Minister of the Interior for a period of four years.²⁵ The Comptroller-General must be a civil servant of at least grade III who has served in the government for at least ten years. He must be a specialist in financial affairs.²⁶ The appointment decree of the Comptroller-General specifies his salary and compensation which are paid by the municipality concerned.²⁷

²⁴The Official Gazette, Annex to No. 42, (May 27, 1963), op. cit., Art. 43, p. 2140.

²⁵Ibid., Art. 116, p. 2148.

²⁶Ibid., Art. 118, p. 2149.

²⁷Ibid., Art. 116, p. 2148.

The Comptroller-General of Aley is responsible to the Muhafez, and the Qaimaqam has no authority over him. The Muhafez of Mount Lebanon punishes the Comptroller-General in case he abuses his authority. Moreover, every complaint against the Comptroller-General is despatched directly to the Muhafez.²⁸ However, the Municipal Law of 1963 mentions that the jurisdiction of the Comptroller-General will be fixed by a decree,²⁹ but till now no decree has been issued to define this jurisdiction. Accordingly, the present jurisdiction of the Comptroller-General is vague and he faces many difficulties in his career.³⁰

The functions of the Comptroller-General can be divided into two main ones:

a) Pre-Audit.

Under pre-audit, the Comptroller-General performs the same functions of the comptroller that are

²⁸ Interview with Mr. Fouad Abi Alama, the Comptroller-General, the Municipality of Aley, August 18, 1967.

²⁹ The Official Gazette, Annex to No. 42, (May 27, 1963), op. cit., Art. 117, p. 2149.

³⁰ Interview with Mr. Fouad Abi Alama, the Comptroller-General, the Municipality of Aley, August 14, 1967.

mentioned in the Public Accounting Law.³¹ Therefore, the Comptroller-General is empowered to check the request for appropriation. The purpose of this supervision is to assure three main things: that the allotment of the appropriation is available in the budget; that the transactions are in conformity with executory regulations;³² and finally, that the allotment is not used or spent for other ends contradicting those designated in the budget.³³ Hence, all fiscal transactions are considered legal only after the written approval of the Comptroller-General.³⁴ It would appear that the audit of the Comptroller-General is an advanced determination of the legality of particular transactions concerning the implementation of the budget.

In case the Comptroller-General refuses any fiscal transaction or decision, he must state clearly the reasons for that refusal. Still, if the Municipality does not accept the decision of the Comptroller-General, the

³¹Ibid.

³²The Official Gazette, Annex to No. 104, (December 30, 1963), op. cit., Art. 65, p. 5641.

³³Ibid., Art. 57, p. 5640.

³⁴Ibid., Art. 61, p. 5641.

case is conveyed to the Minister of the Interior whose final decision is decisive as indicated in the decision of the Bureau of Accounts concerning this subject.³⁵

As it has been mentioned above, every request of appropriation must be ratified by the Comptroller-General before it is authorized in order to be spent by the Municipality of Aley. The Comptroller must study and return the transaction within five days from the date of receiving it. In case the mentioned period passes without returning the transaction, the Municipality has the right to reclaim the transaction and execute it on its own responsibility.

However, if he deems it necessary, the Comptroller has the right to ask once for more written clarifications from the Municipality. For this purpose, he is given five days from the time he receives these required clarifications. When any transaction is subject to the pre-audit of the Bureau of Accounts, the Comptroller

³⁵Interview with Mr. Fouad Abi Alama, the Comptroller-General, the Municipality of Aley, August 18, 1967.

sends it to the Bureau with his explanation.³⁶

However, in this connection, it is permitted in urgent cases that the Municipality can proceed in completing fiscal transactions without the prior approval of the Comptroller-General on condition that the Municipality present to the Comptroller-General for later agreement, the transaction indicating the reasons that justify its action.³⁷ The Bureau of Accounts will investigate the case, and the Municipality or responsible officials will be subject to punitive measures if the Bureau and the Comptroller-General decide that reasons given are not valid. Nevertheless, the Comptroller-General's opinion is the decisive factor. Hence, many cases were completed in this way with the approval of the Comptroller-General because there had been no bad intention.³⁸ The Comptroller gave the example of the old car that scavenges and collects all the dirt, filth, rubbish and refuse from streets and

³⁶The Official Gazette, Annex to No. 104, (December 30, 1963), op. cit., Art. 66, p. 5642.

³⁷Ibid., Art. 61, p. 5641.

³⁸Interview with Mr. Fouad Abi Alama, the Comptroller-General, the Municipality of Aley, August 18, 1967.

houses, and that is liable to be out of order at any moment. Therefore, in case this car is damaged in the summer time, the legal procedures of its repairs must pass through the following steps:

- 1- A declaration of the amount of money needed for repairs;
- 2- This declaration has to be approved by the Municipal Council;
- 3- Then the declaration has to be checked by the Comptroller-General for pre-audit;
- 4- Then it is sent to the concerned level of the Tutelage Authority for final approval;
- 5- The concerned level of the Tutelage Authority will send back the documents for execution.

This process will take around thirty days and the lapse of time will expose the town of Aley to dirt and disease. For this and other significant reasons the representatives of the Central Government must be flexible in applying the laws and regulations.³⁹

³⁹Ibid.

The nature of the work of the Comptroller-General enables him to control the accounts of the Municipality of Aley through maintaining a continuous check overall the fiscal transactions of the Municipality of Aley.⁴⁰

b) Consultive Powers.

The Municipal Council of Aley requested the Ministry of the Interior to permit it to take advantage of the experience of the Comptroller-General of Aley in preparing the budget and in all related problems. The Ministry of the Interior consulted the Bureau of Accounts and the Bureau gave its legal permission to the Municipal Council to consult the Comptroller-General in all financial problems and procedures. Moreover, it left to municipal convenience the alternative of asking the Comptroller-General either to cooperate in preparing the budget or to prepare it as a whole. Accordingly, the Municipal Council asked the Comptroller-General to prepare last year's budget. The Comptroller prepared the budget after conducting an empirical study. He estimated the budget on the basis of L.L. 1,750,000, and he stipulated that the

⁴⁰ Ibid.

Municipal Council must not modify any part of the budget, otherwise, he would decline any responsibility. Yet, for reasons of propaganda, the Municipal Council refused the conditions of the Comptroller-General and raised the budget to L.L. 2,700,000. In the opinion of the Comptroller-General, the Municipal Council did not consider carefully its limited revenues and last year's budget was an unstudied and hasty work. Moreover, there were many other consultations, but the opinions expressed have not been taken into consideration by the Mayor or the Municipal Council. Although the Municipal Council was not compelled to follow the recommendations of the Comptroller-General, the Council had committed serious mistakes in refusing all the advice of the Comptroller because he had no personal interest in the Municipality of Aley or in the town of Aley and his recommendations were based on the welfare of the community. However, it seems that the members of the Municipal Council do not think logically and consider all the cases before them in relation to their interests and their partisans.⁴¹

⁴¹ Ibid.

Pre-audit should be carried out internally by municipal employees since the Bureau of Accounts exercises some of the pre-audit functions and the post-audit functions, but the presence of the Comptroller-General who is appointed by the Central Government means that this government believes that the Municipality of Aley has not reached a stage of development and competence to run this function by itself. As a matter of fact, the Municipality of Aley does not have a well developed financial department and its employees are unqualified. Hence, in order to avoid the difficulties that may arise the presence of the Comptroller-General becomes essential.

The significance of the Comptroller-General is that he supervises the enforcement of the budget through checking the expenditure and purchase orders. This means that he is empowered to refuse the orders and transactions that are illegal or if there are insufficient funds in the budget. Therefore, he prevents mistakes and illegal actions from taking place. Another significant fact is that there is no fear of delay in the procedures of checking the fiscal transactions since the office of the Comptroller-General is located in the Municipality of Aley. All this facilitate the administrative and financial functions of the Municipality.

C. Agencies of the Central Government.

1. The Bureau of Accounts.

The Bureau of Accounts is an administrative and judicial body charged with the responsibilities of supervising the administration of public funds. This is accomplished through controlling the use of these public funds by examining carefully the accuracy of accounts and the legality of the transactions, i.e., the conformity of these accounts with laws and regulations.

Administratively, the Bureau of Accounts is attached to the office of the Prime Minister.⁴² However, the Bureau is an independent entity, independent of both the legislative and executive branches.⁴³ This independence is essential in order to avoid possibilities of political and administrative pressure, and raise the probabilities of insuring objectivity which, in turn, would lead to accurate and efficient work.

⁴²The Official Gazette, No. 32, (June 22, 1959), Legislative Decree No. 118 dated June 12, 1959, Art. 1, p. 803.

⁴³Khatar Shibli, El-'alūm El-Maliya, translation of Arabic title, The Fiscal Sciences (Beirut: Al Fūnūn Press, 1962), p. 163.

The following organizations are under the jurisdiction of the Bureau of Accounts: state organizations, the larger municipalities, municipalities that are subject to the control of the Bureau by a decree taken in the Council of Ministers, public institutions of the state or municipalities, control boards that represent the state in the institutions they supervise or in institutions where the state guarantees a minimum limit of profits, and finally, institutions, societies, and all other organizations with which the state or municipalities have a financial connection through participation or assistance or granting loans and which the state decides to place under the jurisdiction of the Bureau by a decree taken in the Council of Ministers.⁴⁴

The Bureau is composed of judges or councillors, auditors and administrative officials. Moreover, the Bureau has an independent prosecutor-general.⁴⁵

The Bureau has two major functions: administrative and judicial.

⁴⁴The Official Gazette, No. 32, (June 27, 1959), op. cit., Art. 2.

⁴⁵Ibid., Art. 3, p. 804.

a) Administrative function.

Administrative functions are of two kinds, pre-audit and post-audit. The object of administrative pre-auditing is to ascertain the accuracy of transactions and see they are in conformity with the budget and the stipulations of the laws and regulations. In this connection, the law affirms the significance of pre-audit and then goes on to specify the transactions that are subject to such control. The following transactions of the Municipality of Aley fall under the pre-audit of the Bureau of Accounts:

i- Concerning revenues:

1- To farm out revenues and the sale of real estate when the amount exceeds L.L. 10,000.

ii- Concerning expenditures:

1- Contracting of supplies and public works when the cost exceeds L.L. 100,000;

2- Agreements including rent contracts when the amount exceeds L.L. 50,000;

3- Transactions of acquisition of real estate and projects of private contracts entered into by the administration in cases of expropriation when the amount exceeds L.L. 100,000;

4- Formalities of scholarships and assistance that are granted in accordance with laws and regulations except those that do not exceed L.L. 1,000 in one payment or L.L. 10,000 in one year;

5- Out-of-court settlements of lawsuits or disputes when the amount exceeds L.L. 50,000.⁴⁶

In this connection, the Bureau has approved only three transactions as pre-audit concerning the Municipality of Aley. These are as follows:

1- To farm out the lighting of the town of Aley with florescent lights (L.L. 507,638,70);⁴⁷

2- To farm out the paving and asphaltting of the roads within Aley (L.L. 110,600);⁴⁸

3- To assist in the construction of the base of the late Shakib Jabir's statue (L.L. 5,000).⁴⁹

⁴⁶The Official Gazette, No. 37, (August 23, 1961), Decree No. 7366 dated August 18, 1961, Art. 1, p. 1042.

⁴⁷The Bureau of Accounts, Decision No. 520 (June 6, 1966).

⁴⁸The Bureau of Accounts, Decision No. 506 (May 5, 1966).

⁴⁹The Bureau of Accounts, Decision No. 1424 (December 22, 1966).

This means that the Bureau of Accounts has a pre-audit function over many significant fiscal transactions of the Municipality of Aley. Thus, leaving transactions of minor importance to the pre-audit of the Comptroller-General.

The procedures of pre-auditing take place as follows: the transaction concerned and all other related documents are despatched to the head of the Bureau, while a copy is sent to the Prosecutor-General.⁵⁰ Then the responsible judge or councillor takes charge of the pre-audit. However, the head of the Bureau can personally take charge of the transactions if he deems it necessary.⁵¹

The Bureau must give its opinion within ten days of the date of its submission. There is, however, a respite of five days given to the Bureau in case it asks for further written information from the Municipality.⁵² When the fiscal transaction is approved, it is sent back to the Municipality ratified by either the councillor or

⁵⁰The Official Gazette, No. 32, (June 27, 1959), op. cit., Art. 33, p. 810.

⁵¹Ibid., Art. 34.

⁵²Ibid., Art. 35.

the head of the Bureau. Nevertheless, the approval of the Bureau is considered null if it is not executed within the same financial year.⁵³

There is a tendency in the policy of the Bureau to increase its jurisdiction in post-audit, and to provide more jurisdiction to public departments and agencies concerning pre-audit.⁵⁴

The object of the post-audit is to evaluate financial transactions and their general consequences from the time of their authorization through the process of their execution and finally, their inclusion in the accounts. Accordingly, the Bureau issues an annual report and other special reports that deal with the results of its control and the recommended reforms to be made in all financial laws and regulations.⁵⁵ Furthermore, the Bureau issues an annual declaration of the conformity of

⁵³Ibid., Art. 40, p. 811.

⁵⁴Interview with Miss Nijiba Hamdan, a First Auditor, the Bureau of Accounts, May 3, 1966.

⁵⁵The Official Gazette, No. 32, (June 27, 1959), op. cit., Art. 42-44, pp. 811-12.

accounts that are submitted to it and supported by the required documents mentioned in the Public Accounting Law.⁵⁶

b) The Judicial Function.

The judicial function is of two kinds, control of the accounts and control of public employees.

The object of the control of the accounts is to check the accuracy of the accountants' statement and any other person who receives or pays public funds without having the legal authority.⁵⁷ This control is exercised over the following transactions:⁵⁸

1- Concerning the revenues of the budget:

1- The accuracy of documents that served as the bases of levying taxes and fees;

2- Accuracy of the collections and their conformity with the rules governing the collection of taxes;

3- The legality of sending collected taxes to the public treasury.

⁵⁶Ibid., Art. 50, p. 812.

⁵⁷Ibid., Art. 52-53, p. 813.

⁵⁸Ibid., Art. 54.

ii- Concerning the expenditures of the budget:

1- Accuracy of disbursement documents and the conformity of the transactions to the rules of the budget and credits obtained in accordance with them;

2- The presence of receipts for expenditures as prescribed by the law.

iii- All matters concerning the receipts and payments by the treasury:

1- This includes the accuracy of receipts and payment transactions and their conformity with orders and instructions that are issued by the competent authority.

iv- Concerning materials:

1- The accuracy of receiving, preserving and delivering materials.

v- Concerning accounts:

1- Accuracy of accounts and their conformity to laws;

2- Conformity of the records to existing documents.

However, there is a special law describing the procedures and legal means of sending the accounts, information and

documents that are requested by the Bureau of Accounts.⁵⁹

The Bureau will review and examine the statements of the accountants, and will either take temporary decisions or final ones. Temporary decisions will reveal the charges against the account and the obligations which the accountant concerned must fulfill in answering these charges. On the other hand, final decisions determine whether the accountant concerned has been negligent or not. If so, the accountant has to settle the account during an assigned period.⁶⁰

The Bureau of Accounts started to exert its judicial control on the accounts of the Municipality of Aley, at the beginning of 1963. At first, the required documents were sent to the Bureau every month or three months, but recently the Bureau requested the Finance Department in the Municipality of Aley to send them annually.⁶¹

⁵⁹The Official Gazette, No. 8, (January 27, 1964), Decree No. 15109 dated January 13, 1964, pp. 270-274.

⁶⁰The Official Gazette, No. 32, (June 27, 1959), op. cit., Art. 55, pp. 813-14.

⁶¹Interview with Mr. Tawfic Alshami, the head of the Public Works Department, the Municipality of Aley, July 5, 1967.

The control of employees includes the functions and contributions of every person who administers public funds, and every person who participates in it without having the legal capacity to do so. Concerning the application of this control, every person who is charged with the responsibility of administering public funds is considered a public employee whether he is appointed or elected or employed by means of a contract.⁶² This means that both the employees of the Municipality of Aley and the elected councillors (members of the Municipal Council) are under the control of the Bureau. Therefore, every employee or councillor who commits or participates in one of the following infringements is liable to be punished by paying a fine of L.L. 25 to L.L. 5,000, in addition to any civil or penal or disciplinary punishments that may be pronounced by the competent authorities:⁶³

1. The authorization of an appropriation contrary to laws;
2. The authorization of an appropriation without the approval of the Comptroller-General;

⁶²The Official Gazette, No. 32, (June 27, 1959), op. cit., Art. 56, p. 814.

⁶³Ibid., Art. 57, pp. 815-16.

3. Neglecting to submit a transaction to the pre-audit of the Bureau or making a transaction which is not submitted to the control mentioned;
4. Mis-stating of an expenditure in an attempt to conceal exceeding of credit;
5. To make a transaction unapproved by either the Bureau or the Comptroller-General;
6. Executing an order contrary to law; an order that was not sent to the employee through his superior in the hierarchy;
7. Helping or attempting to help persons who have contracts with the administration in order to gain illegal profits;
8. Committing a mistake or a negligence or remission that will cause a loss in public funds;
9. Delaying the submission of documents and clarifications demanded by the Bureau within the time prescribed by laws and regulations;
10. Violating the principles and bases of administering public funds.

Moreover, if the Bureau realizes that the infraction has resulted in injury or loss to public funds, the Bureau is authorized, in addition to the fine perscribed above, to punish the employee involved by a fine that must not be less than half his monthly salary and must not exceed half his annual salary. In this connection, the accused employee is allowed to ask for the assistance of a lawyer of his choice.

The Bureau will evaluate the reasons and causes of the infraction, and to what extent the employee concerned is responsible. The decision of the Bureau will either condemn him or excuse his action in the light of ample evidence of the ignorance of the defaulting employee of the infraction at the time it was committed. Also, the involved employee will not be punished if the investigation of the Bureau proves that the infraction was committed as the result of executing a written order from his direct superior on condition that he had formally drawn the attention of his superior to the infraction before execution takes place. Finally, the Bureau will conduct the investigations mentioned spontaneously or in response to the request of the Prosecutor-General or the Minister of Finance or the administration concerned.⁶⁴

⁶⁴Ibid., Art. 58-61, pp. 815-816.

The Bureau of Accounts exercises its judicial jurisdiction as a court composed of a head and two councillors.⁶⁵ As a matter of course, methods of appeal of the judicial decisions of the Bureau of Accounts are through reconsideration or invalidation. Concerning the first method, the decisions of the court may be appealed before a body composed of the president of the Bureau, the president of the Second Chamber, and the members of the Chamber who have issued the previous decision on condition that there must be one of the following reasons: if it was evident from the verification of another transaction that there has been an error or omission or forgery or duplication, and if certain documents or new facts are found that may change the former decision.⁶⁶

Concerning the second method, the judicial decision of the Bureau is not final if a request of invalidation is sent to the Council of State claiming its

⁶⁵Ibid., Art. 63, p. 916.

⁶⁶Ibid., Art. 73-74, p. 818.

incompetence or its violation of the laws and regulations or violation of legal procedures. The request for invalidation is accepted only from the Prosecutor-General of the Bureau of Accounts, the Minister of Finance on behalf of the Treasurer, the employee and the administration involved. However, the Bureau must conform to the decision of the Council of State in case of annulment of its former decision.⁶⁷

Many judicial decisions were taken by the Bureau against the Mayor, members of the Municipal Council and a number of the employees of the Municipality of Aley. Some of these cases are as follows:

1. Authorizing an expenditure without the approval of the Comptroller-General. The Mayor was convicted and was punished by a L.L. 25 fine;⁶⁸

2. Calling the attention of the accountant of the Municipality of Aley to the fact that he has to send the accounts and all other related documents on an

⁶⁷Ibid., Art. 75-76, pp. 918-19.

⁶⁸The Bureau of Accounts, Decision No. 948 (March 11, 1964).

annual basis and not on a monthly basis;⁶⁹

3. The negligence of the Mayor to send the required clarifications on the fees and debts of the Casino of Aley during the prescribed time. He was punished with a L.L. 25 fine. The negligence of the Mayor to send clarifications concerning the fees on meeting places and on the conformity of accounts of 1962. He was fined L.L. 25;⁷⁰

4. To contract the renting of the building occupied by the municipal staff without the approval of the Comptroller-General. The Mayor was punished by a fine of L.L. 50;⁷¹

5. Transferring a policeman without the approval of the Comptroller-General. The Deputy Mayor was punished by a fine of L.L. 25;⁷²

⁶⁹The Bureau of Accounts, Decision No. 117 (February 13, 1965).

⁷⁰The Bureau of Accounts, Decision No. 141 (February 23, 1965).

⁷¹The Bureau of Accounts, Decision No. 520 (November 5, 1966).

⁷²The Bureau of Accounts, Decision No. 350 (November 15, 1966).

6. The payment of compensation to avoid renting a house that faces the Palace of the President of the Republic without the approval of the Comptroller-General. The following members of the Municipal Council were punished by fines: Naim Murad, Anis Jurdi and Rafik Akel L.L. 50 each, and Said Shuhaib, L.L. 25;⁷³

7. To employ a lawyer through contract contradicting the existing laws and without the approval of the Comptroller-General. The Deputy Mayor was punished by a L.L. 100 fine.⁷⁴

There are many other infractions,⁷⁵ but I will not cite them all because my main intention is to prove a point. This shows that members of the Municipal Council of Aley committed many infractions and that the Bureau of Accounts was able to punish those who had committed them.

⁷³The Bureau of Accounts, Decision No. 113 (January 17, 1967).

⁷⁴The Bureau of Accounts, Decision No. 329 (June 5, 1967).

⁷⁵The Bureau of Accounts, Decision No. 484 (October 29, 1965), No. 7 (January 14, 1966), No. 117 (February 13, 1965), No. 242 (April 7, 1965).

As we have seen, judicial control takes place after the execution of fiscal transactions. Thus, it is considered a post-audit function exercised by the Bureau to determine the accountability of municipal accounts and employees. Therefore, the different post-audits of the Bureau of Accounts are an important mean of control.

The Municipality of Aley can ask the Bureau of Accounts to give its opinion in all financial matters. This opinion is a consultive one. All the written correspondence of the Bureau is sent directly to the Mayor of the Municipality of Aley. Most of these instructions included either requests for certain documents and clarifications or calling the attention of the administration to avoid committing certain infractions.⁷⁶

It has been shown that pre-audit and post-audit are independent audits in the sense that they are conducted by officials and agencies that are not under

⁷⁶Interview with Mr. Naim Murad, the Mayor of Aley, September 12, 1967.

the jurisdiction of the Municipality of Aley.

The presence of the Bureau of Accounts and its continuous control to determine the accountability of accounts and public employees creates a standing warning for the employees to abide by the terms of the laws concerned, and to refrain from committing serious infractions.

Pre-audit and post-audit form a comprehensive control over the financial functions of the Municipality of Aley, and they are interrelated. Both of them are essential since the day-to-day control and examination of the financial affairs of the Municipality of Aley is exercised by the Comptroller-General who is present at the Municipality and his main control function is performed for precautional purposes in order to avoid the commitment of infractions. On the other hand, the control of the Bureau is over the financial statements and transactions of the Municipality of Aley after their execution in order to punish those who have committed infractions, and thus this control is performed for restraining purposes.

The role of the Bureau of Accounts is a flexible means of control and it helps to maintain accountability, and increase the efficiency of the Municipality of Aley. Moreover, the presence of pre-audit and post-audit minimize infractions, and are considered essential in the present stage of municipal government.⁷⁷

As it has been seen, there is close supervision and control exercised by the Comptroller-General and the Bureau of Accounts over all financial procedures and transactions. Hence, this can be considered as an indication of the centralized system that exists in Lebanon. Moreover, the pre-audit and post-audit in the Municipality of Aley form a part of the financial inspection of the Central Government.

⁷⁷Ibid.

CHAPTER VI

CENTRAL GOVERNMENT CONTROLS OVER THE MUNICIPALITY OF ALEY - OTHER CONTROLS

A. Judicial Controls.

The Ministry of Justice is responsible for organizing legal and Judicial affairs and actions, to supervise the implementation of related laws and regulations, to render its opinion in all matters that are brought before its competent departments, and to represent the State before courts. This means that the two main functions of the Ministry of Justice are to administer the law and organize the court systems.

The Ministry is composed of: Judicial courts, religious courts, the Council of State, the Special Administrative Court, the Legislative Consultive Committee and the General Directorate.¹

¹The Official Gazette, No. 68, (December 28, 1959), Decree No. 2876 dated December 16, 1959, Art. 1 & 2, p. 2027. Amended by: The Official Gazette,

It is beyond the scope of this thesis to discuss the various parts of the Ministry of Justice. On the contrary, the discussion will be confined to those parts that have a certain relationship with and control over the Municipality of Aley.

The Municipality of Aley and its employees are subject to both the Judicial courts and administrative courts. However, administrative courts are independent of judicial courts. Thus, the discussion will be limited to administrative courts since they control the actions of municipalities which are considered public entities, accordingly, administrative courts that have a sort of control over the actions of the Municipality of Aley are the Special Administrative court and the Council of State.

1. The Special Administrative Court.

The Court is composed of a Judge as president, an engineer, and a financial inspector as members.² This

No. 56, (December 30, 1961), Decree No. 8340 dated December 30, 1961, pp. 1628-29 and The Official Gazette, No. 56 (December 30, 1961), Decree No. 8341 dated December 30, 1961, p. 1630.

²The Official Gazette, No. 49, (November 30, 1954), Legislative Decree No. 3 dated November 30, 1954, Art. 3, p. 811.

Court is considered a court of first instance and its final decisions can be appealed to the Council of State. The appeal has to be made within two months after the notification of the decision of the Court.³

The Court studies the following subjects: claims of damages for injuries resulting from public works; administrative cases that deal with contracts or purchases or agreements that were entered into by public administrations in the public interest; and finally, all cases that deal with works connected with public properties.⁴

Concerning the Municipality of Aley, most of the judgements of the Special Administrative Court were appealed to the Council of State.⁵

2. The Council of State.

The Council of State is a board or a court that judges administrative affairs and cases. Also, it

³Ibid., Art. 13, p. 813.

⁴Ibid., Art. 2 , p. 811.

⁵I noticed this fact when I studied the files of the lawyer of Aley.

supervises the preparation of legislative or organizational ordinances.⁶ The Council is composed of a president, a representative of the government, heads of chambers, councillors, and assistant councillors.⁷

The Council is the court for administrative cases, and it is the court of appeals and the court of cassation for all other administrative cases that were the responsibility of special courts⁸ as indicated in the case of the Special Administrative Court. In case the Council sets aside the contested Judgement of any of these special courts, the court concerned has to abide by the decision of the Council.⁹ It would appear, therefore, that the Council has the final word in all administrative cases.

The Council studies in particular the following:

1. Claims for damages arising from injuries suffered while on public service;

⁶The Official Gazette, No. 38, (July 13, 1959), Legislative Decree No. 119 dated June 12, 1959, Art. 1, pp. 1096.

⁷Ibid., Art. 4.

⁸Ibid., Art. 50, p. 1106.

⁹Ibid., Art. 105-111, pp. 1116-17.

2. Administrative cases that deal with contracts or agreements or undertaking work at a fixed price arranged with governmental agencies for the public interests;
3. Direct tax problems;
4. Indirect tax problems;
5. All matters concerning the salaries of employees and their retirement compensations;
6. Problems that deal with public works;¹⁰
7. Applications for the annulment of administrative decisions and acts issued by an administrative authority on the ground of its illegality because it violates existing laws. Hence, testing the legality of the resolutions of the Municipality of Aley;
8. Disputes concerning the legality of the elections of administrative councils, like municipal councils, councils of elders, etc.... The right of protest concerning these elections is granted to every voter of the constituency concerned, to candidates and the Minister

¹⁰Ibid., Art. 51, p. 1106.

of the Interior;¹¹

9. Disputes that arise from punitive measures taken against employees except those concerning judges and their assistants; and finally,

10. Applications for checking the accuracy of administrative functions.¹²

However,ⁱⁿ my discussion of the other controls, I have mentioned many cases that are under the jurisdiction of the Council of State.¹³

Individuals are only allowed to sue before the Council of State for a revision of a decision taken by the Municipality of Aley.¹⁴

Decisions of the Council of State are binding, and administrative authorities are compelled to follow the details of the judgements. However, the remedies

¹¹Ibid., Art. 53 & 99, pp. 1106 & 1116.

¹²Ibid., Art. 55, p. 1107.

¹³Check pp. 72 - 73 - 75, 141 & 142 of this thesis.

¹⁴The Official Gazette, No. 38, (July 13, 1959), op. cit., Art. 57, p. 1107.

of the Council are not liable to be appealed to other courts, but to the Council of state itself to rehear the case. Still, appeals against a judgement of the Council of State are not allowed except in the following conditions:

If the decision was taken in accordance with forged or false documents and papers; if one of the parties was condemned because he failed to present to the Court a decisive document which was in the possession of his litigant; and finally, in case the investigation and the Judgement of the Council did not take into consideration some basic principles indicated by the law.¹⁵

Cases that are brought before the Council of State with respect to the Municipality of Aley are confined to those instituted by citizens against actions and resolutions of the Municipality of Aley.¹⁶

¹⁵Ibid., Art. 87, pp. 1113-14.

¹⁶Interview with Mr. Sami Kassis, the head of the Administrative Department, the Municipality of Aley, October 12, 1967.

The Council of State exercises an important control over the actions and resolutions of the Municipality of Aley. The Council is rendering valuable services because administrative adjudication protects the interests and rights of citizens against the arbitrary actions of the Municipality of Aley, and the rights and interests of the members of the Municipal Council of Aley against arbitrary actions of the Central Government and its representatives. This means that the decisions of the Council are remedies that enforce a right and correct a wrong from being committed in the name of the law. Accordingly, the role of the Council diminishes the possibilities of abusive powers by the Municipality of Aley, and helps in granting citizens sufficient compensation for injuries and damages caused by the Municipality of Aley.

To what extent are the provisions and procedures of judicial and administrative actions under the control of the Tutelage Authority?

Except in urgent cases and precautional procedures, the Municipality of Aley does not enjoy the right to institute action in courts without the prior

approval of the Qaimaqam. The authorization must mention the right of the Municipality in instituting the lawsuit and the existence of public interest in raising the case. In this connection, the Qaimaqam is required to give his decision within one month of the date of receiving the request. If he fails to decide within the prescribed time limit, the Municipality has the right to proceed with the case.¹⁷

On the other hand, the Municipality of Aley can not be sued, except in cases of expropriation, before certain procedure is completed. The claimant has to send a notification to the Muhafez explaining the subject of his case and its reasons and causes. Still, the claimant has no right to start any litigation until one month after presenting the notification or sending it through registered mail. However, the law mentions an advantage of this notification which provides that the presentation of the notification suspends any forfeiture or lapse of time if the Municipality is sued

¹⁷The Official Gazette, Annex to No. 42, (May 27, 1963), op. cit., Art. 76, pp. 2144-46.

within a period of three months. However, the Muhafez has to send the notification to the Mayor requesting the Municipal Council to discuss the case.¹⁸

Furthermore, the Municipality of Aley is subject to the rules that are followed in executing sentences or judgements against the state.¹⁹

B. Technical Controls.

The Civil Organization Directorate or Directorate of City Planning is a directorate in the Ministry of Public Works.²⁰ This Directorate is made up of the following divisions: the Diwan (Secretariate), the Civil Organization Research Service, the Municipal Projects Service, the Civil Organization Branches in the Muhafazas²¹ and the Technical Bureaus in the Qadas.²²

¹⁸ Ibid., Art. 77, p. 2145.

¹⁹ Ibid., Art. 78.

²⁰ The Official Gazette, No. 69, (December 29, 1959), Decree No. 2872 dated December 16, 1959, Art. 5 & 31, pp. 2091 & 2097.

²¹ The Official Gazette, No. 41 (May 21, 1964), Decree No. 16314 dated May 15, 1964, Art. 2, p. 1673.

²² The Official Gazette, No. 81, (October 10, 1966), Decree No. 5675 dated October 6, 1966, pp. 1459-60.

The Civil Organization Directorate provides services that involve engineering technology and professional knowledge. Thus, it is staffed by engineers in order to perform its technical functions well. Its work is not confined to one city or town, but the services cover the entire Lebanese Republic. Accordingly, it is in a position to provide harmony and coordination in city planning.

A brief discussion of the functions of the various sections of the Directorate will clarify its role and its relationships with the Municipality of Aley.

1. The Civil Organization Research Service.

The Civil Organization Research Service is composed of the following departments:

a) The Department of Civil Organization Designs, which is responsible for gathering up-to-date data and using it in preparing general civil organization studies, and the fundamental and principal designs of cities and towns. It prepares the programs of projects that deal with transportation, residential, industrial, monumental and touristic areas, and the preservation of necessary

lands for the construction of administrative, educational and military buildings. Moreover, the department approves the projects that have been studied and prepares the drafts of related decrees.²³

b) Planning Department. This department is entrusted with the study and preparation of the charts of the approved projects of land surveys in order to organize and implement them.

c) Surveying Department. This department studies all private and public applications concerning merging or dividing lands. It prepares all merging or dividing land projects and will follow up their implementation in view of existing laws and regulations. Moreover, it renders advice and suggestions regarding the building of roads, yards and public gardens at the expense of the municipalities and proprietors concerned. Finally, the Department is responsible for informing the Real Estate Departments of the merging or dividing projects that are approved.²⁴

²³The Official Gazette, No. 41, (May 21, 1964), op. cit., Art. 5, p. 1673.

²⁴Ibid., Art. 6-7, pp. 1673-74.

2. The Municipal Projects Service.

The Municipal Projects Service is composed of:

a) The Roads and Buildings Department. It supervises the implementation of the studies that deal with roads and buildings that are financed by municipalities. It prepares and implements sanitation studies that deal with collecting and draining off dirty water and rain. The department draws up the plans of the systems of sewers and the purification of the sewage water. Lastly, the Department prepares the statement of the conditions tenders are subject to, time tables and estimates of cost related to programs and their execution.

b) The Expropriation Department is responsible for preparing the expropriation files and other related transactions that are presented by public agencies and municipalities. These files are sent to the expropriation committies for further study and final decision.²⁵

As has been shown, the work of the Civil Organization Research and the Municipal Project Service

²⁵Ibid., Art. 8-10, p. 1674.

is directed primarily towards planning. This planning seeks to assure a systematic development of the external and physical aspects of cities, towns and villages.

3. The Civil Organization Branches in the Muhafazas (Provinces). They are responsible for the public works of municipalities, conducting the necessary technical studies, preparing the files of the contracts and terms of work whose cost does not exceed L.L. 5,000. Moreover, the branches supervise the execution of municipal public works by contractors or private companies and check the work against contract specifications.

The branches study the applications for construction licences or building permits and authorize them if they do not contradict building regulations. Then they supervise the construction in order to check its conformity with the license or the permit. In case there is an infraction, the branch will see that necessary measures are taken to prevent it. In this connection, the branches are allowed to give advice to the inhabitants of villages in building their residences and to supervise the execution of their works. Further, the branches have to assure the maintenance of municipal roads, and to prevent any

encroachment.²⁶ Finally, the branches supervise the Technical Bureaus in the Qadas (districts).²⁷

4. The Technical Bureaus.

Two main points should be stated at the outset. First, that Technical Bureaus were established after the realization by the Central Government that Planning is a continuous problem, and this led the government to establish permanent Technical Bureaus in order to perform most of the functions other than planning which is left entirely to the central office in Beirut.²⁸ Second, after the National Conference of Municipalities in 1965, efforts have been made in favor of more deconcentration of the functions of the Civil Organization Directorate. This led to the establishment of some Technical Bureaus in a few Qadas.²⁹

Technical Bureaus have been established in some districts other than the ones that are considered the

²⁶Ibid., Art. 11-12, pp. 1674-75.

²⁷The Official Gazette, No. 81, (October 10, 1966), op. cit., Art. 5, p. 1460.

²⁸Interview with Mr. John Isa, the head of the Technical Bureau in Aley, April 23, 1968.

²⁹Interview with Mr. Sami Kassis, the head of the Administrative Department, the Municipality of Aley, September 25, 1967.

centers of the Muhafazas; thus, a new Technical Bureau was established in the Qada of Aley in August 15, 1967. The functions of this Technical Bureau are as follows:³⁰

1. To give declarations about land-surveys;
2. To study the applications for building and reparations permits, review and prepare all their technical requirements and supervise their execution;
3. To prepare a list of the construction infractions and despatch it to the authorities concerned to allow them to take the necessary measures to prevent these infractions;
4. To assure the technical consultations for municipalities, and advice to the inhabitants of villages in building their residences and then to supervise their execution;
5. To prepare the technical studies, the files of the contracts and the terms of works that are subject

³⁰The Official Gazette, No. 81 (October 10, 1966), op. cit., Art. 2, p. 1459.

to the control of the Qaimaqam;³¹

6. To supervise the execution of municipal public works (that are farmed out on a trust basis or according to an invoice), and to settle the accounts that deal with such works; and finally ,

7. To prepare town plans according to the laws and regulations of the civil organization.

All applications for building permits have to be approved by the Technical Bureau. This control is essential and significant because if Lebanese cities, towns and villages are to become livable places, the construction of buildings should be guided and controlled by a qualified organization. This is because the use of private land and property has a direct relation to transport and the esthetic aspects of towns and villages. So it regulates the construction of buildings in such a way to preserve the rights of citizens and the general welfare.

The importance of the new Technical Bureau in Aley is in the facilities provided to citizens in

³¹The Official Gazette, Annex to No. 42, (May 27, 1963), op. cit., Art. 67, p. 2143.

obtaining building permits.³² This means that deconcentration began to produce its anticipated fruitful results.

In conclusion, the Civil Organization Directorate exercises technical control over the technical functions of the Municipality of Aley.

C. The Central Inspection Commission.

A Central Inspection Commission is established and attached to the office of the Prime Minister. All public administrations, institutions and municipalities, including their employees and all individuals who work in these institutions as permanent or temporary employees, are subject to its jurisdiction. Moreover, the government can subject all other institutions that are under the control of the Bureau of Accounts to the permanent or temporary control of the Central Inspection Commission by a decree taken in the Council of Ministers. The Judicial Branch, the Army, Internal Security Forces and Public Security do not fall under its jurisdiction except in the financial perspective and within the

³²Interview with Mr. John Isa, op. cit.

limitations determined by its special laws.³³

The Central Inspection Commission performs the following basic functions: controls the administrations, public institutions and municipalities through various kinds of inspection; attempts to put forth necessary efforts in order to improve administrative work methods; offers advice to administrative authorities with or without their request; coordinates common work between many public agencies; and finally, conducts studies, directs investigations and acts at the request of the authorities concerned.³⁴

The apparatus of the Central Inspection Commission is composed of the following parts: the Board, the Secretariat (Diwan), the Central Inspection Administration, the Research and Guidance Administration, and the Tenders Administration.³⁵

³³The Official Gazette, No. 14, (February 17, 1964), Decree No. 15317 dated February 5, 1964, Art. 1, p. 461.

³⁴The Official Gazette, No. 29, (June 20, 1959), Legislative Decree No. 115 dated June 12, 1959, Art. 2, p. 588.

³⁵The Official Gazette, No. 61, (November 9, 1959), Decree No. 2460 dated November 9, 1959, Art. 1, p. 1736.

1. The Board.

The Board is constituted by the head of the Central Inspection Administration, the head of the Research and Guidance Administration, and senior general inspectors.³⁶

The Board is responsible for submitting to the Council of Ministers the required opinions and suggestions for the reorganization of public administrations, public institutions and municipalities. Also, for simplifying and improving work methods in the organizations mentioned. Moreover, it decides upon the annual inspection programs in all public administrations, public institutions and municipalities, the punitive measures that must be taken against the employees that are accused by inspectors, and in all matters that are entrusted to it by executory laws and regulations.³⁷

The president of the Board has to put into force the decisions of the Board or to follow up the

³⁶The Official Gazette, No. 29, (June 20, 1959), op. cit., Art. 3, p. 589.

³⁷Ibid., Art. 11, pp. 592-93.

execution of these decisions. Furthermore, all public administrations have to inform the president about the procedures that are taken in order to carry out the decisions of the Board.³⁸

2. The Central Inspection Administration.

The basic jurisdiction of the Central Inspection Administration is to observe and inspect how public organizations and municipalities implement their assigned responsibilities. This means that the employees of the organizations mentioned are subject to the same kind of inspection.

Inspection programs are of three kinds: annual programs, whereas, all municipalities and public agencies have to be inspected at least once a year; exceptional programs; in accordance with special requests. These requests emanate from the head of the Central Inspection Administration, the head of the Civil Service Commission, the head of the Bureau of Accounts, or the Prosecutor-General and finally the minister or the

³⁸The Official Gazette, No. 61, (November 9, 1959), op. cit., Art. 5, p. 1737.

director of the administration concerned (the Mayor of the Municipality of Aley),³⁹

The Central Inspection Administration is made up of several services in order to assure the necessary competence to accomplish its functions that cover administrative and technical fields. These are as follows:

- Administrative Inspection Service,
- Engineering Inspection Service,
- Health, Social and Agricultural Inspection Service,
- Educational Inspection Service,
- Fiscal Inspection Service, and
- The Inspection Service of the Ministry of Foreign Affairs.⁴⁰

This means that inspectors are technicians and specialists. Also, this will enhance the importance of inspection of the Central Inspection Administration because the inspection system depends to a great extent on the qualifications of the inspectors and their competence.

³⁹The Official Gazette, No. 29, (June 20, 1959), op. cit., Art. 12, pp. 593-94.

⁴⁰The Official Gazette, No. 61, (November 9, 1959), op. cit., Art. 8, pp. 1737-38.

Every service is headed by an Inspector General who is assisted by inspectors and assistant inspectors.⁴¹ Anyone of them has the authority to conduct the inspection. These inspectors enjoy wide jurisdiction which enable them to perform their duties precisely. Accordingly, the inspectors are empowered to check and review all the documents, records, archives, and papers of the departments they are inspecting. Moreover, they can take copies or photographs of all the documents and necessary information. They investigate employees and can call any one of them to witness,⁴² and in case he refuses or hinders the work of inspection, he will be committing an infraction and the general inspector can punish him. However, the inspector asks the direct superior of the defaulter to indicate in writing his opinion concerning the punishment he suggests be given the employee. If he fails to answer within twenty-four hours, then his opinion is neglected. The employee concerned can object to the

⁴¹The Official Gazette, No. 29, (June 20, 1959), op. cit., Art. 3, p. 589.

⁴²Ibid., Art. 16, p. 595.

Central Inspection Board through the General Inspector concerned to the punishment. The punishment will be increased if the board considers the objection as not valid.⁴³

Furthermore, the inspectors can charge the employees with affairs outside their official work time, to stop granting leaves during the inspection, to suspend temporarily from work all employees that are investigated; they can if they deem it necessary collect written or oral information from private institutions and individuals; and lastly, they can seek the help of experts in all matters that require technical experience on condition that the head of the Central Inspection Administration approves this request.

During their inspection if the inspectors discover any counterintervention that constitutes a penal offence, they can suggest judicial pursuance of the employee concerned before the end of the inspection on condition that the employee is informed and requested to submit his written defence within a week of the date of its arrival.⁴⁴

⁴³The Official Gazette, No. 14, (February 17, 1964), op. cit., Art. 16, p. 462.

⁴⁴The Official Gazette, No. 21, (December 31, 1959), Decision No. 2862 dated December 16, 1959, Art. 10, p. 2364.

This period is decreased to three days in case of urgency.⁴⁵

Inspectors can directly contact all public administrations in order to obtain the required information, and can ask the assistance of the Security Forces when it is necessary.⁴⁶ In due course, the inspectors are required to conduct their investigations in complete secrecy. Still, the minister concerned, the head of the Central Inspection Administration, the head of the Civil Service Commission and the head of the Bureau of Accounts when financial matters are involved, have the right to be informed of the procedures and results of these investigations.⁴⁷

Through their general inspector, the inspectors must submit weekly reports about their commissions to the head of the Central Inspection Administration. They

⁴⁵The Official Gazette, No. 8, (January 28, 1963), Decree No. 11849 dated January 22, 1963, Art. 1, p. 310.

⁴⁶The Official Gazette, No. 21, (December 31, 1959), op. cit., Art. 9, p. 2363.

⁴⁷The Official Gazette, No. 29, (June 20, 1959), op. cit., Art. 17, p. 596.

must submit their final reports and suggestions through the same channel within one month. As a result of this the head of the Central Inspection Administration sends to the Board of the Central Inspection the reports with his comments and recommendations within a period of ten days of receiving it. The Board will deliberate and take either the required disciplinary measures directly (other than demotion and dismissal from service) against the employees who have committed infractions or it will decide to refer them to the General Disciplinary Council or to the courts after obtaining the consent of the Municipality. The final decisions of the Board are conveyed to the following authorities for execution: to the Minister concerned or to the Mayor of Aley, to the Civil Service Commission, and to the Bureau of Accounts and the General Prosecutor of the Bureau when financial matters are considered. However, methods of appeal of the decisions of the Board are through reconsideration or invalidation. Decisions of the Board can be reconsidered in case there has been a material error and omission or if certain documents and new facts are discovered that may change the former decision, while invalidation of the decision is completed through an appeal to the

Council of State. If the Council of State refused the decision of the Board, the Board must restudy the case and then its decision is considered final.⁴⁸

The Central Inspection Administration is investigating many complaints concerned with the Municipality of Aley. These are divided into two main kinds:

a) Complaints of the Municipality of Aley against public agencies and officials. These are: a complaint against the Qaimaqam of Aley, a complaint against the water service, and a complaint against Said Shuhaib (a member of the Municipal Council).

b) About nine complaints brought by citizens against the Municipality of Aley because it did not execute the decisions of other public authorities.

The inspection of the Central Administration is characterized by routine and delays; since most of the complaints mentioned were made two years ago and no judgement has yet been taken.⁴⁹

⁴⁸The Official Gazette, No. 14, (February 17, 1964), op. cit., Art. 3, p. 462-63.

⁴⁹Interview with Mr. Sami Kassis, the head of the Administrative Department, the Municipality of Aley, September 12, 1967.

It has been noticed that the inspection of the Central Inspection Administration is the examination and evaluation of the actions and behavior of public officials as to whether their behavior and contributions are in conformity with the central laws and regulations governing their behavior. The Central Inspection Administration will consider the case, study it through an empirical survey and then give a judgement as to whether that case complies with executory public laws or forms a violation. These inspections help to provide a realistic picture of the actual situation of administration in the Municipality of Aley. Moreover, the future anticipation of the role of the Central Inspection Commission is that it will provide for a sound system of administrative behavior.

3. The Research and Guidance Administration.

The Research and Guidance Administration is entrusted with instructing and guiding public organizations to the methods that will enhance and develop the effectiveness of existing administrative systems in order to enable them to perform their responsibilities and

duties in the most efficient manner. In particular, it performs the following: Submits suggestions on how to organize the departments in order to cope with technical developments, and hence to achieve optimum results at a minimum price; improves administrative methods by conducting technical studies, to shorten and simplify transactions, install machines in some administrations, unify the pattern of publications, unify the furniture and equipment, etc...; conducts statistics about public organizations and their employees;⁵⁰ and finally, organizes the renting of buildings that are used by all public departments, independent enterprises, municipalities and other institutions that are subject to the control of the Bureau of Accounts. In case the decision of the Research and Guidance Administration Contradicts the suggestions of the pertinent administration or the Municipality of Aley, then the administration or the

⁵⁰The Official Gazette, No. 29, (June 30, 1959), op. cit., Art. 20, p. 597.

Municipality has the right to bring the case before the Council of Ministers for final decision after the approval of the Ministry of Finance.⁵¹

In order to achieve its aims, the Research and Guidance Administration sends its employees or experts to the various public agencies to study their organizations and systems. Furthermore, the Research and Guidance Administration has to choose in every public administration or service an employee who will assist in conducting the surveys and in preparing the required suggestions. This employee has to submit an annual report about his performance to the Research and Guidance Administration. When the required studies and suggestions are completed, the Research and Guidance Administration submits them to the Municipality. The Municipality has to give its opinion within two months. In case the Municipality neglects or refuses to implement them, the head of the Central Inspection Administration will bring the case before the Council of Ministers to take the necessary

⁵¹The Official Gazette, No. 210, (May 20, 1963), Decree No. 127110 dated May 13, 1963, Art. 1-6, p. 1884.

measures.⁵²

4. The Tenders Administration.

The Tenders Administration is responsible to conduct matters that deal with public tenders in accordance with the executory laws and regulations.⁵³

The main contributions of the Central Inspection Commission can be divided into two main kinds, punitive and constructive: punitive in the sense that the Board will take necessary measures to punish public agencies and officials who violate laws in order to ensure the compliance of subordinate levels with the provisions of the laws. Consequently, the commission is legally permitted to use sanctions when a certain condition is found wrong. Constructive in the sense that the Research and Guidance Administration takes the required measures in order to improve existing systems of administration. It would appear, therefore, that both kinds of contributions are considered positive ones.

⁵²The Official Gazette, No. 29, (June 20, 1959), op. cit., Art. 22, p. 598.

⁵³The Official Gazette, No. 61, (November 9, 1959), op. cit., Art. 22-25, p. 1740-41.

In my opinion, the inspection and auditing of both the Central Inspection Commission and the Bureau of Accounts are a sincere and important obstacle to the spread of immorality among public officials. It is recommended that both authorities should continue to render their functions for a long time until prevailing conditions of Lebanese administration change.

The Central Inspection Commission and the Bureau of Accounts use evaluation and adjustment methods since they report on their findings and suggest remedies.

Control and inspection are among the functions that are essential to the operation of a good municipality. In the preceding three chapters I have presented the ways of control and inspection in a broad manner. As has been mentioned, officials of the Central Government like the Minister of the Interior, Muhafez, Qaimaqam, the Comptroller General and the special administrative courts, the Bureau of Accounts, the Central Inspection Commission, etc... are the responsible authorities for exercising control over the Municipality of Aley. Accordingly, this control can be said to be of two types: control of legality and control of policy and expediency. The first is to ascertain that the actions of the Municipality of Aley are

in conformity with the laws concerned, and any action contradicting that condition is considered null and void. As a result, certain measures will be taken by the competent courts to correct any fallacy through the payment of compensation or through punitive and disciplinary measures taken against the condemned employees. The second type of control is to make sure that the decisions and actions of the authorities of the Municipality of Aley are in compliance with the laws and regulations of the Central Government, i.e. the planned policy of the government. This control is exercised by the officials of the Central Government who enjoy the required jurisdiction to perform their delegated powers. However, the main purpose of these controls is to analyse and then ensure public accountability and responsibility. Therefore, to assure the responsibility for authority that has been vested in both the elected and appointed officials of the Municipality of Aley because "responsibility is a characteristic of both men and institutions. Responsible men create responsible institutions, and responsible institutions develop responsibility in

men."⁵⁴ Hence, the importance of the control role of the mentioned authorities is to develop responsibility and accountability in the employees of the Municipality of Aley who lack this trait despite the many shortcomings of the authorities mentioned..

In conclusion, central controls over the Municipality of Aley are extensive and comprise all the actions of the Municipality. This fact has been apparent in the controlling powers of central officials and agencies over the various functions of the Municipality. It is clear that these excessive controls that are exercised by the Central Government are the result of the incompetence and sometimes irresponsibility and un-cautiousness of the Municipality of Aley; on the other hand, they show the high degree of centralization in the Lebanese system of local government and thus the subordination of these local authorities to the Central Government. All this means that central controls over municipalities limit the freedom and discretionary powers of municipalities.

⁵⁴Fritz Morstein Marx (ed.), Elements of Public Administration (New York: Prentice-Hall Inc., 1947), p. 501.

CHAPTER VII

CONCLUSION

The purpose of this study was to examine the relationships and controls between the Central Government and local government as manifested in the case of the Municipality of Aley. It is appropriate now to turn into an evaluation of the following:

A. The Role of the Municipality of Aley.

The Municipality of Aley is not living up to the expectations of the community and the Central Government. This failure is due to certain factors.

The Municipal Council of Aley is elected by the electoral body of the town of Aley. However, the role of this electoral body ends with the election of the councillors because people have nothing to do with those they have elected, and members of the Municipal Council are subject to the control and supervision of

the Central Government. In this concern, careful attention should be given to the role of the electoral body of the town of Aley. Unfortunately, in a town like Aley, as in most Lebanese towns, there is no political maturity. Voters in Aley have not learned to elect candidates who have the required qualifications and really contribute to the welfare of the town. Instead, they elect persons who have the same political and religious beliefs irrespective of what they can perform or contribute. Also, family obligations and loyalties are still strong in Aley.

Despite the many impressive contributions of the present Municipal Council, it has failed to fulfill its functions that were mentioned in the 1963 Municipal Law. This is because members of the Municipal Council did not devote their abilities and attention to the work of the Municipality. While most of them failed to attend the meetings of the Council when it first convened. Moreover, the Council as a body entrusted with the Determinative Authority did not plan its work and functions.

Maladministration, lack of responsibility, and lack of qualified personnel are three distinctive

features of the Executive Authority of the Municipality of Aley. Moreover, the essential work of the Mayor and the Municipal Council requires planning. It follows, that those who determine the policy are responsible for executing the terms of their policy through the Mayor who is the head of the Executive Authority. Here emerges the main deficiency of the Municipality of Aley which is the lacking of the required talents and qualifications in order to cope with social changes and demands of the community. Hence, reforming the whole administration becomes an urgent need. There is another urgent need for in-service training of the present personnel of the Municipality of Aley. This in-service training can be carried out with the help of the Central Government where employees can be trained in the training section of the National Institute of Public Administration.

The Mayor of Aley plays a very significant role because he prepares the budget. This fact strengthens his control over the departments of the Municipality that are in charge of executing the plans and projects. Furthermore, the dual accountability of the Mayor, to the Central Government and to the Municipal Council,

enhances his role in maintaining and insuring the required cooperation between the Municipality and the Central Government. In the case of the Municipality of Aley, there exists informally an integration of the Executive and Determinative Authorities because the Mayor dominates both of them. Therefore, these formal and informal powers put the Mayor in a strong position to accelerate development in the town. The present Mayor of Aley has considerably greater personal prestige and powers than before. This growth of the Mayor's influence and powers, without any hesitation, are the result of the recent deconcentration plans of the Central Government.

What are the pre-requisites the Mayor must have in order to play his important role in the most efficient way? He must have great ability, public responsibility, education, certain talents of leadership, and flexibility in order to lead the Municipality of Aley at the present transitional stage of change in Lebanese society.

The role of the Mayor of Aley becomes more complicated because he has a political function beside

his administrative one. This political function requires from the Mayor to have a main trait: he has to be well acquainted with the political conditions of the town, and he must have a sense of politics. Besides, this political function has many disadvantages in the present stage of the development of the Lebanese metropolises. The Mayor most often finds himself amid unhappy situations where he is split between two forces: as a chief executive he has to implement certain policies, on the other hand, as a political figure he has to consider the interplay of political pressures. This interplay of politics resulted in many serious disputes between the Mayor of Aley on one side and some of the members of the Municipal Council, some of the deputies of the area, the Qaimaqam of Aley, and many of the elders and notables of Aley on the other side. These disputes resulted in hindering the work of the Municipality and thus in delaying the execution of significant projects. Politics should be separated from partisan administration as much as possible, especially in connection with the Mayor, who acts as the chief administrator and executive. An elected Mayor has political pledges, and hence, there are good chances that he may sacrifice good administration for

political obligations. This brings us to the fact that an executive who is free from any political pressure or influence could render better service for a town like Aley. A City Manager is highly recommended in Aley. Under such a plan significant pressures of parties and groups are confined to the deliberations of the Municipal Council. Once the Councillors choose a course of action, and the resolutions are despatched to the Executive Authority for implementation, political and other pressures stop. Accordingly, a "City Manager" plan will help to solve some of the problems just mentioned. An experiment in a city or town, however, will show us the merits and demerits of such a plan.

B. Central Government Controls Over the Municipality of Aley.

In evaluating the existing system of central-local relations and controls, many comments have to be made. To begin with, all authorities that have some control and supervision over the Municipality of Aley have the required specialization, skills, and talents. Technical competence and administrative

qualifications are combined with independence of judgment in the technical, judicial, administrative, and financial controls.

The controls that have been mentioned in the preceding chapters deal with human beings: the employees of both the Municipality of Aley and the Central Government, and their behavior in applying the laws and performing their duties. This fact explains the importance of such controls and relations. In view of this, it can be concluded that the prime task of the central controls is to determine whether the employees and officials of the Municipality of Aley are performing their functions and duties in accordance with the laws and rules that are legislated by the Central Government. So public responsibilities are analysed in order to prevent any infraction and to punish the employee who abuses this power.

Present procedures and steps of controls and relations are too many and too slow. Besides, they are long and complicated. These procedures result in serious delays which slow down the functions of the Municipality through no fault of its officials. The delays in

Municipal transactions lead to red tape and routine beside the overlapping of the jurisdiction of many public authorities that have some control over the Municipality of Aley. Also, they fray the nerves of both local officials and citizens, and strengthen their continuous criticism of the Central Government. It appears, therefore, that there is an urgent need for the adjustment of these steps and procedures that involve a mass of paper work and complex lines of communications. This can be accomplished through constant review, modification, reform, and reorganization of the existing methods of controls and relations in order to inject simplicity, coordination, and effectiveness in the central-local administrative channels.

Many local voices were raised in the National Conference of Municipalities of 1965 against the principle of Tutelage Authority and other controls of the Central Government. These criticisms and objections must not be accepted because decentralization measures and Tutelage Authority do not contradict. Yet, in order to conceive the Lebanese municipal situation, it must be made clear that municipal functions are in reality

central functions that are delegated to municipal authorities for convenience of administration. Therefore, it is natural that the Central Government supervises and controls its delegated functions. It follows, therefore, that while retaining its tutelage authority and other controls, the Central Government must take urgent measures, as previously mentioned, to review and modify existing complicated procedures resulting from the implementation of its controls in order to create new more suitable conditions. Also, the urgent modification of the present system of Tutelage Authority is that the Municipal Council of Aley must be free to pass and implement most of its resolutions with a minimum of interference on the part of the Tutelage Authority since the work and functions of the Municipality are under the controls of the Comptroller General, Bureau of Accounts, Central Inspection Commission, etc...

All municipalities in Lebanon must not be treated in the same manner. They must be divided into categories and each category has to be governed by a separate law that defines its jurisdiction and relations with the Central Government. This is because many

municipalities in cities and summer resorts have many advantages and better conditions such as experience, education, and revenues over other municipalities. In evidence of this, more discretionary powers have to be delegated to them, decreasing the many restrictions of the Tutelage Authority and other authorities.

In conclusion, it must be admitted that there are plenty of difficulties and obstacles that have to be overcome before a smooth and reliable central-local relationship can be achieved.

C. The Extent of Decentralization.

Decentralization is embodied in the present Municipal Law of 1963. Municipal Councils are elected bodies representing the people of Lebanese villages, towns, and cities. In fact, this satisfies a prime condition of decentralization. Furthermore, the jurisdiction of the Municipal Council covers extensive local services, and members of the municipal councils have a real say in their local affairs. They express their powers in the independent resolutions they take. In

other words, local actions are initiated by the Municipal Council through its resolution-making powers. This is what the present law mentions, but a realistic analysis of whether there is decentralization in practice or not, must determine the location of final decision-making power. This can be achieved by reviewing the case of the Municipality of Aley.

Although the Municipal Council of Aley is free to deliberate and pass resolutions in local affairs, this independence is limited by the fact that all its resolutions are subject to the approval of the Tutelage Authority. This control limits the degree of autonomy and discretion that is enjoyed by the Municipal Council of Aley. Accordingly, the final decision-making power is in the hands of the Tutelage Authority. This is not the only indication of the dominance of the Central Government that makes the Municipality of Aley circumscribed in its activities and enjoying very limited autonomy. Other indications are limited to the following:

1. All municipal laws are promulgated by the Central Government;

2. The Tutelage Authority has the power to suspend the resolutions of the Municipal Council;

3. The Tutelage Authority has the power to dissolve the Municipal Council, after which the Qaimaqam undertakes the charge of the Municipality and acts as mayor;

4. The obligation that compels the Municipal Council and the Mayor to issue their decisions and orders in conformity with Municipal Laws and regulations of the Central Government; i.e., they do not have the power to legislate or act in a discretionary manner; and finally,

5. Shortage of local funds makes the Central Government interfere in local affairs, hence, the Municipality of Aley can not enjoy local independence when it depends to a large extent on the financial assistance of the Central Government.

These observations and facts plus others that have been mentioned in chapters four to six when discussing Central Controls lead to the conclusion that

while in law municipalities enjoy tremendous powers, in practice they are under strict central control. Therefore, the principle of decentralization has little force in Lebanon. The controls of the Central Government make municipalities, to a certain extent, mere agents of the Central Government, and not independent bodies enjoying a degree of autonomy and discretionary powers. Most likely, a question may be raised about the meaning "to a certain extent." It is true that the above mentioned conclusion gives the actual picture of the present municipal situation, but it must not be ignored that there is a new tendency to grant more discretionary powers that may relieve municipalities of the extensive controls of the Tutelage Authority. This can be seen in the recent powers granting the Mayor of Aley more jurisdiction and independence over certain aspects of the status of the personnel of the Municipality of Aley. Also, the Mayor of Aley has gained certain powers permitting him to spend without the prior approval of the Tutelage Authority. Still, the Municipal Fees Law of 1967 gives municipalities more independence in the field of taxes and fees. These are the only new functions that are left to the municipal discretion. Indeed the

acts of the Central Government will have their consequences in the municipal sphere of the Municipality of Aley, but the factor of time is very important.

After studying the concepts of centralization and decentralization, it was shown that decentralization requires a high sense of public responsibility and service, high standards of ethics and morals, specific talents and qualifications in politics, administration, economics, law, and a general maturity concerning life and its problems. These requirements must not be viewed as the only concern of the Central officials or elected councillors, but they must be viewed as elements in the culture of the society. Yet, central and local leaders must realize that if they want to implement decentralization measures they will face many difficulties because they have to undertake systematic changes in Lebanese society. Based on this, if the Central Government wishes to pass further measures towards decentralization, it must prepare a social climate that will fulfill the requirements of such a trend because it is insufficient to change only the laws.

It is true that no development can succeed without the cooperation of local communities and citizens in one way or another. It must be always taken into consideration that local problems and circumstances are better understood at the local level because local people feel them and they are part of their daily life. So the underlying principle of policy of the Lebanese government towards its local communities must be the encouragement of participation of local people in their local activities. At present, this plan must be executed through a wide scope of deconcentration measures. This is because prevailing conditions in Lebanese towns, villages, and cities are underdeveloped and decentralization measures at the present time may increase local disputes, sectarianism, and widen differences among local communities. These conditions can be improved through the genuine will of the Central Government. However, the development of the present conditions prevailing in villages, towns, and cities needs time and planned policy. In the mean time, municipalities must function within a framework of the central control where both the Central Government and municipalities should follow a strict common policy until prevailing conditions change. The Central Government must decide upon

long term planned programs which should be gradually implemented. These plans have to include the orientation of national educational programs to promote civil education, and the ideas of public responsibility and service. Moreover, if the Lebanese government believes in the importance of local government in the development and national awakening, plans must be drawn up to educate citizens and local officials by conveying to them the necessary literature about local government. This will help to provide them with the background knowledge about municipalities and their role in development. Furthermore, the Central Government must conduct training programs for local employees to ensure the necessary competence at the local level. These training programs must be designed to teach local officials not only the most efficient administrative methods, but also how to use their own judgement and to be flexible when they are confronted by certain problems and conflicts that fall within their jurisdiction. It can be concluded that until municipalities and the society in Lebanon reach a stage of maturity and competence, and till the Central Government with the cooperation of local authorities and citizens build up a sense of unity, nationalism,

and internal stability, deconcentration is highly recommended with the essential adjustments in the procedures and steps of controls discussed before. This leads us to another conclusion which is that it is preferable not to evaluate a system in terms of centralization or decentralization, but in terms of the contributions of that system to the community. This is because every country has its own conditions and culture, and local systems must be adapted to satisfy current conditions.

APPENDIX

TAXES AND FEES

a) Taxes and fees that are collected by the Municipality of Aley:¹

1- A tax is imposed on the rental value of buildings on both the tenants and owners. The tax is a progressive one which is imposed on two kinds of buildings:

i- Residences:

- 3% on the rental value ranging between L.L. 1 and L.L. 500.
- 4% on the rental value ranging between L.L. 500 and L.L. 2000.
- 5% on the rental value ranging between L.L. 2000 and L.L. 4000.
- 7% on the rental value ranging between L.L. 4000 and L.L. 8000.
- 10% on the rental value that exceeds L.L. 8000.

¹The Official Gazette, No. 66, (August 17, 1967), op. cit., Art. 5-66, pp. 1352-61.

ii- Other buildings that are used for investments, such as offices, shops, etc. . .

- 5% on the rental value ranging between L.L. 1 and L.L. 500.
- 6% on the rental value ranging between L.L. 500 and L.L. 2000.
- 7% on the rental value ranging between L.L. 2000 and L.L. 5000.
- 9% on the rental value ranging between L.L. 5000 and L.L. 10,000.

2- Fees on meeting places.

Meeting places are divided into three main categories:

i- Tourist institutions, such as: hotels (pensions, motels, furnished apartments, chalets), dance halls (night clubs, sterios, cabarets, etc. . .), casinos, snack bars, resturants, coffee houses and patesiries.

ii- Other meeting places, such as: cinemas, theaters, swimming places and baths (sona).

iii- Gambling clubs as: race tracks and pigeon shooting clubs.

All these meeting places are subject to licensing and exploitation fees. The licensing fee is collected once when the meeting place concerned is granted a license, while the exploitation fee is paid annually.

These fees on meeting places are within the following minimum and maximum limits:

1-	Licensing fee	Minimum	Maximum
	meeting places	L.L. 50	L.L. 1000
	gambling clubs	L.L. 300	L.L. 3000
2-	Exploiting tax	Minimum	Maximum
	Hotels	L.L. 5	L.L. 100
	Dance halls	L.L. 200	L.L. 5000
	Casinos	L.L. 1000	L.L. 15000
	Bars	L.L. 100	L.L. 1500
	Restaurants	L.L. 50	L.L. 1500
	Coffee houses	L.L. 50	L.L. 500
	Pastry shops	L.L. 50	L.L. 1000
	Cinemas and theatres	L.L. 1000	L.L. 5000
	Swimming places and baths	L.L. 100	L.L. 10000

The exploitation tax on hotels is per room per annum.

Concerning gambling clubs, the exploitation fee is fixed on the basis of every meeting in accordance with L.L. 50 as a minimum limit and L.L. 1000 as a maximum limit.

Moreover, a tax is added on entrance tickets to the gambling clubs which is as follows: P.L. 100 on every ticket for the first category, P.L. 50 on every ticket for the second category, P.L. 25 on every ticket for the third category and P.L. 50 on every ticket for the clubs that are not classified. This tax is collected by the Indirect Tax Department in the Ministry of Finance and the revenue is paid every three months to the municipality concerned if the gambling club lies within the boundaries of the municipality; otherwise, the payment will be paid into the Municipal Development Fund in case the club is not located within any municipal boundaries.

3- Taxes and Fees on Advertisement.

All kinds of advertisements are subject to licensing and exploitation fees. The licensing fee is collected once when the institution or person concerned

is granted a license. The exploitation fee is collected every year. To facilitate the collection of municipal fees, advertisements are classified into four categories: fixed, mobile, projected and non-projected.

The licensing fee is fixed within the following minimum and maximum limits as:

- Fixed and mobile advertisements:
minimum L.L. 1 maximum L.L. 10
- Projected and Non Projected advertisements:
minimum L.L. 2 maximum L.L. 5

The exploitation fee is fixed within the following minimum and maximum limits:

- Fixed and mobile advertisements:
minimum L.L. 5 maximum L.L. 20
- Projected and non projected advertisements:
minimum L.L. 3 maximum L.L. 10

However, the exploitation fee on projected advertisements in cinemas, on television or in any other place is paid weekly within the following minimum and maximum limits: L.L. 1 L.L. 50

4- Fees for using municipal properties.

Here again there is a licensing fee and an occupancy fee. As has been mentioned before, the licensing fee is paid once when the citizen or institution concerned is granted a license, while the occupancy fee is paid annually.

The licensing fee is fixed within the following minimum and maximum limits: L.L. 10 - L.L. 50. The occupancy fee depends on the nature of the occupancy whether permanent or temporary, fixed or mobile. Hence, the fee on a permanent state is on the rental value of the area occupied. This is fixed within the following minimum and maximum limits: 15% - 50% of the estimated rental value on ground occupation; 3% - 11% of the rental value on open occupation.

The occupation fee of public properties, temporary or mobile, is per square meter ranging between L.L. 2 and L.L. 20.

The Municipal Council has the authority to collect a fee on parking in public domains. The Council will fix the rate of the fee.

5- Fees on filling stations.

Here again there is a licensing fee and an annual exploitation fee. The licensing fee will range between a minimum limit of L.L. 100 and a maximum limit of 2000, while the exploitation fee will range between a minimum limit of L.L. 50 and a maximum limit of L.L. 500.

6- Fees on the motors of classified industrial institutions.

This includes also the machines to run elevators in buildings. Here again there are licensing and exploitation fees. The licensing fee ranges between a minimum limit of L.L. 25 and a maximum limit of L.L. 500, while the exploitation fee on every horse power of the engine ranges between a minimum limit of L.L. 2 and a maximum limit of L.L. 10.

7- Fees on Building Licences.

This is an ad valorem fee per square meter of the planned construction or that to be added to the existing construction ranging between 1.5% and 2% of the value of one square meter of the land concerned.

This is as follows: 1.5% of the price per square meter when it does not exceed L.L. 100, 1.75% when the price per square meter is more than L.L. 100 and less than L.L. 200, 2% if it exceeds L.L. 200 and is less than L.L. 1000, and 2% on the first L.L. 1000 plus 2% on every amount that exceeds the L.L. 1000.

Fences are subject to a licensing fee of L.L. 10, while benches are subject to a tenth of the licensing fee for construction. An additional 5% is added to building licences or permits for the use of municipal domains and establishments during the construction period.

8- Fees on Sewers and Side walks.

Buildings are subject to the following fees:

construction and maintenance fee of sewers and construction and maintenance fee on side walks. The fees are fixed as follows:

L.L. 1.50 is the construction fee of sewers on every square meter of the construction that is subject to the construction license fee and P.L. 25 is the construction fee of pavements on every square meter of the construction

that is subject to the construction license fee.

The maintenance fee of the sewage system is:

1% of the rental value of the construction, while the maintenance fee of side walks in one out of a thousand of the rental value of the building.

9- Fees on Technical statements and studies.

A fee of L.L. 10 is imposed in the following cases:

- Obtaining a plan (or chart) of the property.
- Verifying every request for the partition of a property.
- Giving a statement of the sewers of a property.

10- Fees on Slaughtered Animals.

Animals that are slaughtered within the boundaries of the Municipality are subject to a fee fixed and demarcated as follows:

- L.L. 1.50 on every sheep or lamb, kid or she-goat.
- L.L. 3 on every cow or calf or bull, whose weight is less than seventy five kilogrammes.

- L.L. 4 on every cow or calf or bull whose weight is more than seventy five kilogrammes.
- L.L. 7 on every pig.
- L.L. 5 on every camel or horse or buffalo.

Moreover, a checking fee of P.L. 5 per Kilogramme is collected on meat that is brought from outside the municipal boundaries, on condition that the meat was not subject to the above mentioned fees.

11- Fees on auction sales.

Purchases at auction sales are subject to an ad valorem fee of 2.5% of the selling price.

12- Fees on pedlars.

Pedlars are subject to a licensing fee of L.L. 3. This fee is increased to three times in case carriages or carts are used, and to ten times if motor vehicles are used.

13- Fees on Medical check ups of Artisans.

For every medical check up a fee of L.L. 3 is imposed on every artisan who is subject to this check-up.

d) Other Fees and Taxes.²

In addition to the taxes and fees mentioned above, the Municipality is allowed to impose special entrance fees to historic and touristic places that are located within its boundaries on condition that half of such fees must be paid into the treasury of the state.

²Ibid., Art. 155, p. 1371.

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