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The Office of the Muhafez

By

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The Office of the Muhafez

Saab

To my uncle Hassib A.H. Saab

Preface

The muhafez who acts in his multi-farious capacities as the vital link between the central authorities and the people of the muhafaza is playing an ever-increasing role in Lebanese administration. As a result of the devolution of power followed by the successive Lebanese governments, the function of the muhafez as the representative of central authority not only became more important but also his association with the muhafaza emphasized the role he plays as the executor of policies and the recipient of popular demands. Hence, this thesis purports to give a comprehensive study to the formal and informal aspects of the muhafez's office so as to serve as a corner-stone for any further research about the regional and local administration systems in Lebanon.

Before concluding, I would like to express my indebtedness to the following persons:

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Prof. Adnan Iskandar who recommended "the Office of the Muhafez" as a title for the thesis and provided the initial encouragement to write on such a topic.

All those whom I interviewed and whose names are mentioned in the course of the study for the interest they showed in my work and for their invaluable assistance in providing me with the necessary information.

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A lot of the material is based on my own experience and observations. Any shortcomings or expressions of opinion are my own responsibility.

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Chapter I

Introduction

The Theoretical Frame of Reference

The Objectives of the Thesis:

This thesis intends to study one form of local government, the government of all the administrative regions of a country by means of the local agents or muhafezin who are appointed by and responsible to the central government. The muhafazas, which are units of local administration serve more or less a twofold purpose. On the one hand they are areas for the central government set up for its convenience in making effectives its own policies whether economic, social or political and in administering the laws on a nation-wide application; on the other hand they are units or entities of regional life for achieving the special ends desired by the local community. Since the muhafazas are of considerable importance, it becomes indispensable to study the powers whether formal or informal that are conferred upon their governor, the muhafez.

Research Methods:

The information upon which the thesis is based depends on library research in addition to the analysis of laws and decrees relating to the "Office of the Muhafez". The laws are supplemented by the observations and knowledge of the author in this respect as well as by interviews conducted with the muhafezin and the personnel of the Ministry of Interior.

The Scope of the Thesis:

The office of the muhafez in Lebanon is to a large degree influenced by the Ottoman and French types of government. In this

respect, therefore, it is of importance to start with the period when the Ottomans incorporated Lebanon into their empire. Thus, Chapter Two will deal with the historical background of the office of the muhafez in Lebanon from the time the Ottomans occupied the country in 1516 until 1943 when Lebanon obtained independence from the mandatory power--France. It will lay down the framework and describe the powers of the muhafez or whatever is related to him during the four hundred and twenty-six years of foreign rule.

Chapter Three will deal with the muhafazas which are the present administrative divisions of Lebanon. These are Beirut, South Lebanon, North Lebanon, Mount Lebanon and Biqa. Each muhafaza is governed by an appointed official who is responsible to all the ministers for the direction of all the affairs of his administrative region. This chapter, therefore, will examine the number and status of the muhafezin, their salaries, responsibilities, duties, conditions of appointment, allowances, fringe benefits, accountability and discipline; the relationships of the muhafez to the qaimaqam, council of the muhafaiza and chief of the diwan.

Chapter Four is devoted to a discussion about the muhafez's relationships, with the regional offices of the ministries and the control he exercises over them.

Chapter Five will discuss the relationships of the muhafez with the municipalities. Among other things, it will examine the degree of control which the muhafez exercises over the decisions of the decentralized bodies: whether he can require the mayor to take steps

which the muhafez considers to be necessary in the interest of public order and, in case of the mayor's refusal, the measures he can take in his name. The chapter will also cover the right of the muhafez to suspend a decision on the basis of illegality, his role in the suspension or dissolution of a municipal council, his power to write into communal budgets the obligatory expenditures which are omitted by the municipal councils, and to balance the budget. Thus, because the municipalities are organs of the state having a special task to perform and a special mode of recruitment, the state has certain powers over them and over local councillors. Local authorities can be dissolved if they are found incapable of carrying out their duties properly, or if they violate the laws or refuse to perform duties legally incumbent on them. In addition, many of their decisions and actions are liable to the scrutiny and approval of the muhafez, without which the decisions are null and void. This form of prior consent and general supervisions over local authorities by the muhafez, and which is usually referred to as tutelage will be the subject of the fifth chapter.

Chapter Six will discuss the informal role played by the muhafez. This is not an easy task to accomplish satisfactorily. Therefore, the material included in this chapter will depend on the availability of reliable information revealed on the part of those who are to be interviewed.

The final chapter will evaluate the "office of the muhafez" and determine whether it is better to make changes on the basis of

decentralization and more local autonomy or centralization and less local autonomy. It will provide an answer as to whether it is better to give more authority for municipal councils in connection with the execution of their decisions or more discretionary powers for the muhafez with relation to the administration of work in his region. The answer will be in the light of the legal status and the powers granted to the muhafez for it is a matter of considerable importance that there should be no unnecessary obstruction to the effective performance of the public service. The answer will also take into consideration the range and nature of functions devolved upon the local authorities as well as the extent of central supervision and control over the local bodies both in their finances and in their services.

It is necessary to point out from the beginning that any recommendation embraces weaknesses as well as strong points because normally there are two ways of looking at local government. The first angle from which local government can be looked at is from the standpoint of the local body. In this respect G.D.H. Cole suggests that in the case of rival claimants, the final voice ought to rest with the city, town, village, or region, as an organized community, with a right to control and order its own means of providing the essentials of good living for all the inhabitants which comprise it.¹ In this respect the municipalities may be granted a good deal of discretion and responsibility in matters relating to them.²

¹G.D.H. Cole, Local and Regional Government, (London: Cassell and Company Ltd., 1953), p. 47.

²William Anderson (ed.), Local Government in Europe, (New York: D. Appleton Century Company, 1939), pp. XIII-XV.

The second angle of approach from which local government can be looked at is from the standpoint of the central government. In this respect G.D.H. Cole suggests that the administration acting for the central departments and thinking in terms of its convenience, has everywhere a tendency to regard the local body as merely an agency for implementing policies laid down by the central government.³ This approach to the problem is true of Lebanon wherein the council of ministers controls all the functions of local governments through the muhafezin.

The recommendations offered in the conclusion of the thesis will try to compromise and take into consideration municipal autonomy, regional autonomy, and central control or supervision. The local authorities whether regional or municipal will be allowed a great deal of discretion and responsibility in matters relating to the regions and municipalities.

Definition and Explanation of Terms

1. Local Government:

Before beginning a discussion on the "Office of the Muhafez" certain terms must be defined and explained. The term "Local Government" itself needs elaboration for it may signify one of two meanings. It may refer to the government of all parts of a country by means of local agents appointed by and responsible only to the central authorities. This is local government of a kind and

³Cole, op.cit., p. 37.

may be called "local state-government".⁴ Second, there is government by local bodies freely elected, which, while subject to the supremacy of the national government, are vested with power, direction, and responsibility which they can exercise without control over their decisions by a higher authority. The extent of power, responsibility and discretion which the municipal bodies possess is a matter of degree which varies greatly in the different countries. This is referred to in some countries as "Communal autonomy"; in others "local self-government".⁵

In this respect one can say that local government does not have the same meaning every where. On the contrary, it may have different connotations which vary from one state to another.⁶ In a completely centralised state, local government takes simply the form of appointment of agents responsible to the central government.⁷ The alternative, in a decentralized state, is to leave to the municipalities themselves the provision and administration of purely local matters, the central government interfering only in those of national importance.⁸ In this respect K.H. Crawford suggests that local

⁴G. Montagu Harris, Comparative Local Government, (New York: Hutchinson's University Library, 1948), p. 9.

⁵Ibid., p. 9. Decentralization and deconcentration are used in this thesis to denote "Local self-government" and "local state government".

⁶Charles Barratt, Your Local Authority, (London: Sir Isaac Pitman and Sons, Ltd., 1949), pp. 2-4.

⁷Ibid., p. 1.

⁸Ibid.

government is a corporate body constituted by the incorporation of the inhabitants residing within a defined area, upon whom the legislature has conferred corporate status, rights and liabilities, including the right to administer through the agency of an elected council such matters of local concern as are either expressly specified, or are necessarily implied from the nature and extent of the authority conferred.⁹ This implies that local bodies are the creation of some superior authority which has the power to increase their authority or to terminate their existence at will.¹⁰ The same conclusion was reached by G.D.H. Cole who maintained that local government is local self-government primarily in the field of administration, rather than in the legislative field. It usually means some form of government that serve only a small area and exercises only delegated powers. As such local governments are not sovereign as are the governments of independent states; and in the main they do not issue laws--they administer laws passed by some higher authority with powers extending over a larger area.¹¹ The same outlook was confirmed by Charles Barratt who said that local government is the regulation in particular localities of matters primarily of local importance by locally elected councils raising the funds necessary for their activities by the imposition of local taxes under the surveillance of the central govern-

⁹ K.H. Crawford, Canadian Municipal Government, (Toronto: University of Toronto Press, 1959), p. 49.

¹⁰ Ibid., p. 48.

¹¹ Cole, op.cit., pp. 27-28.

ment.¹² In addition, he added, it is the absence of a definite line of division between "central" and "local" which makes it difficult to render any accurate definition of local government.¹³ However, even if general agreement could be assumed as to which are local matters and which are not, the best that can be expressed is that in a certain government the forces tending in one direction are on the whole greater than those tending in the others, and that the government is accordingly centralized or decentralized.¹⁴ The choice then lies between enjoying local self-government of one kind or the other which differ in degree from one country to another. The muhafazin or local agents exercise control over the municipal elected bodies on behalf of the central authority. This type of control known as administrative trusteeship or protection varies considerably from one country to another. Thus, in Lebanon for example, central supervision covers the following matters:¹⁵

(1) Control over the locally elected bodies which is exercised whenever the central authority is entitled to dissolve or suspend some of the members of the municipal councils in certain determined cases or when it has the right to withdraw membership from the members of the local bodies.

¹²Barratt, op.cit., p. 2.

¹³Ibid., p. 3.

¹⁴R.K. Gooch, Regionalism in France, (New York: The Century Company, 1931), pp. 36-37.

¹⁵Zuhdi Yakun, The Administrative Law, (Beirut:Asriah Library, 1955-57), I, pp. 255-56.

(2) Supervision and control of the activities of the municipal councils as in the case when the muhafez retains the right to approve the whole or part of the resolutions passed by the local bodies or to annul and cancel the decisions emanating from them or when he performs the function of auditing the accounts.

It should be noted in particular that the Lebanese government's control extends to the authority of legislation as regards the municipal bodies. This authority, which is referred to as regulatory administrative tutelage is illustrated in whatever the government undertakes in the organization of the local bodies by promulgating the laws passed by parliament and regulating the local authority.¹⁶

Administrative control is carried out by ministries seated in the capital; such control should not be too severe, as otherwise it cannot be said that the municipal body is carrying out its local affairs.¹⁷

Tutelage in Lebanon is of two types:¹⁸

(1) Control by the central authorities over its representatives in the region.

(2) Control by the government through the medium of its provincial agents over the municipalities.

The first control is more severe than the second for in case the central authority uses its right in discharging the members of the local councils in circumstances defined by law, it is the local

¹⁶ Ibid., p. 256.

¹⁷ Ibid.

¹⁸ Ibid.

group or population who elects a substitute and not the central authority--thus making a differentiation between persons relating to municipal administration from the officials attached to the government.¹⁹

Moreover, the status of persons acting in decentralized services differ from that of the muhafezin in another respect. Thus, in case a council is dissolved, the law determines a certain time for electing another in lieu, while, in case of discharge of any muhafez, the government is the competent authority and has the choice to decide the time for nominating another in lieu without being bound by any specified period of time.²⁰

For the purpose of this thesis, Lebanese local government can be defined as the government of all parts of a country by means of centrally appointed local agents and elected municipal councils which are subservient and responsible to them. The provincial agents are appointed by and responsible only to the central government while the elected councils are directly under their control as stipulated by the laws in force.

2. Hierarchic Supervision and Central Tutelage:

The control exercised by the central authority over the duties of its employees is called hierarchic control or supervision, while the control of the government over the local bodies is known

¹⁹Ibid., pp. 256-57

²⁰Ibid., p. 257.

as administrative tutelage.²¹ The official in the first is subject directly to his superior and has to abide by the instructions taken from him, while the employee in the decentralized system is not dependent directly to any other channel and has a certain sort of autonomy.²² In addition, the manner of control in both ways differs the one from the other. Thus, the highest official or superior may impose through his instructions the directions which are to be followed by his subordinate while discharging his duties. The employee of the decentralized bodies on the other hand, is too far from receiving the instructions because his autonomy is guaranteed against any encroachments on the part of the central government.²³

These differences do not preclude the fact that the manners of control are but one in many respects as we could notice in the following matters.²⁴

(1) If there should be resolutions subject to confirmation, they shall be all approved through one system notwithstanding its source whether it be from the central or decentralized authority.

(2) The power of stoppage of the administrative functions and its annulment or alteration is one because the controlling authority holds the right of alteration, stoppage, and annulment of the decisions notwithstanding its source.

²¹Brian Chapman, Introduction to French Local Government, (London: George Allen and Unwin Ltd., 1953), p. 258.

²²Yakun, op.cit., p. 258.

²³Ibid.

²⁴Ibid., pp. 258-59.

(3) The right of the controlling authority to act in lieu of the responsible administration is present in both ways. Moreover, the right of the superior to exceed the jurisdiction of the subordinate is not allowed in the two systems in such countries as France.

(3) The Difference between Decentralization and Extension of Power or Deconcentration:

Extension of power is not the same as decentralization. Sometimes the central administration, in order to alleviate the burden of work reaching it from the local governments, grants the administrative officials representing it in the muhafazas wide powers in certain matters.²⁵ Thus, there are resolutions taken by the municipal bodies which are not executory unless they are confirmed by the muhafez. For example decisions on questions relating to municipal public services such as night watchmen, fire-brigades, public health, municipal police, hospitals, public transportation, central market places, theatres, sewage system, water supply and electricity are left to the muhafez. Moreover, the muhafez exercises inspection and supervision over the council of the muhafaza, the qaim maqam and all other administrative employees of the central ministries in the region.²⁶ This sort of extending the power of the muhafezin can be really called deconcentration.²⁷

²⁵The Lebanese society for political studies, Research in Administrative Organization, (Beirut: Lebanese Society for Political Studies, 1959), pp. 141-42.

²⁶Yakun, op.cit., pp. 267-68.

²⁷The Lebanese Society for Political Studies, op.cit., p. 142.

Hence when the central authorities widen the jurisdiction of the provincial agents, as in the case of the muharezin in Lebanon, this does not mean decentralization of local administration because the aim of the central government is simply to alleviate the burden which overwhelms the minister and nothing else. Therefore, we should not be illusioned by the extension of the powers of the official of the central government and look to this type of things as decentralization, because the latter as already said is and means the administration of the area on a wide scale by the local bodies and local officials, i.e. the municipalities.²⁸

It can be seen from this differentiation between decentralization and deconcentration that the two words are used to describe local self government and local state government. However, some writers maintain that since both words imply the devolution of powers from above, the distinction would not be accepted as a correct expression of the situation because it is held that the communes or local authorities in some countries, of which Switzerland is an outstanding example, were historically anterior to the central government and therefore possess inherent rights of their own.²⁹ In my opinion such objections do not preclude the fact that the distinction is applicable at least to countries which came under the French influence, e.g. Lebanon.

²⁸ Ibid.

²⁹ Harris, op.cit., p. 9.

4. Deconcentration and Hierarchic Supervision:

The term local government may signify the government of all the regions of a country by means of local agents responsible only to and appointed by the central authorities. This implies that these agents of the central government, centrally appointed, are made responsible to the central authorities seated at the capital for carrying out all or certain decisions within a particular area. The rule of the local agents through devolution of power from the centre is referred to as deconcentration of authority. To grant powers of decisions to state officials operating in the various administrative subdivisions of the country involve deconcentration of power.³⁰ However, those agents of the state are usually subject to what is called hierarchic supervision. This simply means that the superiors of the prefects or muhafezin are empowered because of their greater power of discretion to reverse the decisions of the regional agents.³¹

5. Regionalism, Decentralization and the Federal Regime:

In some states, federal or unitary in structure, regional authorities with intermediate functions and powers, intervene between local governing bodies and the central government, and it is sometimes difficult to tell whether such authorities can be regarded as of the local type holding merely delegated powers, or as subordinate kinds of states exercising less than full sovereignty.

³⁰Chapman, op.cit., p. 124.

³¹Ibid., p. 124.

G.D.H. Cole suggests in this respect that where a number of previously separate geographical areas have come under a common unifying government, the regional areas are looked at as being the nature of states; whereas, where a large area is broken up into smaller units for purposes of administration and the local inhabitants are allowed to express their opinion in the conduct of their affairs, the regional units are regarded as belonging to the sphere of local government.³² Another author viewed regional government as standing somewhere between administrative decentralization and federalism.³³

The explanation mentioned above would not tell whether a muhafaza in a unitary state such as Lebanon is correspondent to a state under the federal regime. Although the muhafaza and the state are in a sense forms of regional government, yet the following differences distinguish them:

(1) The powers maintained for one of the governments falling within the federal system differs in its substance from the local matters in respect of a group administered by the regional system. There can be seen a substantial difference in the nature of both the federal and decentralized systems. The decentralized government is a purely administrative one while the government covered by the federal union enjoys all the powers of a state. It has its own constitution and legislation and deals

³²Cole, op. cit., p. 28.

³³Gooch, op. cit., p. 17.

with its affairs which do not fall within the authority of the central federal government such as the administrative and judicial matters. However, the muhafazas which are run on the basis of territorial decentralization cannot make any alteration of the powers of the municipal councils which have been promulgated by law.

(2) The local affairs are limited in the provinces (muhafazas) which are administered by the muhafez by virtue of an express stipulation of law promulgated by the central authority at its discretion, whilst it is noted that the functions of the federal government and state government are provided for and defined in the Federal Constitution. The latter cannot be altered save by agreement of all the governments affiliated to the federation or union.

(3) The powers given to each government participating in the Federation are safeguarded by the constitution contrary to the decentralized form of governments where the relations between them and the central authority are defined by a normal law; this liaison being liable to change and alteration at the will of the central authority.

(4) The states in the federal union have governments in the full sense of the word; they have their legislative councils, their executive authority and their judicial courts. They are not similar to the muhafazas. The federal system, moreover, appears in a political manner whereas the appearance of the muhafazas or decentralized bodies is purely administrative. The philosopher Dowsky has described both systems as follows: There exists a federal system if we see that the state/province has a government and there exists a decentralized system if we can see that the area is administered by officials or agents representing the executive authority.

(5) The system of administrative tutorship shows that the administration of the muhafazas is done on behalf of the central government. However, the state governments are not subject to control by the central

authorities in matters relating to them. But in case there is no stipulation that any question is within the competence of the federal authority or the federal government, the central federal government may in such situations carry in any modifications by virtue of law, even if this would be connected with purely local matters.³⁴

At this stage it is of considerable importance to note that the Italian constitution which was promulgated on December 27, 1947 established a provincial system standing midway between the federal system and the system of the muhafazas. It granted the provinces the right to legislate its local affairs through its local councils in areas defined in the constitution.³⁵ Moreover, although each province had its own prime minister, the central government possessed some powers of control and supervision over the provinces.³⁶

6. Administrative Tutelage and Decentralization:

I referred earlier in this chapter to the La Tutelle Administrative which the muhafaiz exercises over the municipalities. It is time to give a detailed discussion about the precise meaning of the word as it is used in the thesis. Brian Chapman suggests that

³⁴Yakun, op. cit., pp. 269-272.

³⁵Ibid., p. 272.

³⁶Ibid.

Tutelage begins when the state grants powers of decision to persons who are not subject to hierarchic control, but whose actions are taken in the name of a public body belonging to the corpus of state institutions. Local authorities have no existence independent from that of the state, and consequently elected authorities exercise not their own inherent powers, but those conceded to them by a higher state organization: these powers are said to be decentralised.³⁷

Such conclusion allows one to say that decentralization and tutelage go hand in hand and perhaps the best definition of tutelage is that "it comprises the totality of powers accorded by law to a superior authority over decentralized bodies and over their actions, granted in order to protect the general interest."³⁸

Such valuable definition of what La Tutelle Administrative is leads to the rejection of the definition supplied by Mr. Henry Berthelemy in his article on the subject, volume X of the French encyclopedia. After denying the term "guardianship" as equivalent to tutelle on the grounds that it applies to the case of persons unable to take care of themselves, which is not the case with local authorities, he proceeds to define La tutelle administrative as the

entirety of precautions taken in order that the decentralized services shall not encroach upon the sphere of national services, that they shall not by negligence or incapacity, endanger the interests of the community which they serve, and that they abstain from any abuse of authority as against local minorities.³⁹

Although this definition might be partly accepted, it is doubtful

³⁷ Chapman, op.cit., p. 124.

³⁸ Ibid., p. 124.

³⁹ Harris, op.cit., p. 141.

whether it is complete especially as it makes no reference to compliance with the law.⁴⁰

The supreme controlling power is, of course, the central government--the president of the republic and the ministers--but between them and the local authorities is an official of utmost importance, whose positions and powers it is necessary to study very carefully--namely the Muhafez.

⁴⁰Ibid., p. 141.

Chapter II

The Historical Background

The Mutasarrifs during the Turkish Regime:

The four centuries of Ottoman rule over what is now Syria and Lebanon provided the basis of an administrative system which continued in its essentials to the present day. After the conquest of the area in 1517, the mamluk administrative divisions were maintained. Syria was divided to the vilayets of Damascus with ten Sanjaqs, chief among which was Sidon and Beirut; Aleppo with nine Sanjaqs embracing North Syria; and Tripoli.¹ Although the Wali governed each vilayet, and the Mutasarrifs administered the Sanjaqs, many privileges were granted to the local landlords. Those feudal lords enjoyed almost complete authority over their subjects and at times even concluded treaties with the foreign powers.²

The grand viziers who were ambitious to create a modern State in which they would be really sovereign instead of being merely a little more than superiors of more or less autonomous emirates, felt the most urgent need to have a down flowing administrative system whereby the highest executive authority could make its power felt through the whole hierarchy of local communities, there was only one model for them to follow namely France for the latter had

¹Philip Hitti, History of Syria, (London: The Macmillan company, 1951), pp. 663-64.

²Keith M. Henderson and Emile S. Shihadeh, "The Evolution of Local Government in Lebanon," Journal of Local Administration Overseas, II, No. 3, (July, 1963), p. 137.

evolved from the first through the second empire a hierarchy not only of administrative areas and units but also of field agents of the central government.³

Madhat Pasha, having introduced with success a closely copied system extracted from the French Departmental Administration in the vilayet of the Danube, incorporated his experience into other regions in the Turkish Empire.⁴ Imitating this system, the Ottoman lands between the 1840's and 1860's were subdivided into one which take the form of vilayets, qadas, Nihiyes and villages. Moreover, adjusting the old practices to the new pattern, the Ottoman lands obtained in 1840 their corresponding administrative hierarchy of field agents such as the Wali, qaim maqam, mudir al-nahiye and a local moukhtar.⁵

However, the most complete and lasting legislation was the vilayet law of 1864 spelled out in the vilayet's administrative law of 1871. It provided for a five tier hierarchy of vilayets, Sanjak, qadas, nahiye and kariye. A corresponding hierarchy of field agents of the central government developed in these territorial units down

³ France had evolved from the first through the second empire a hierarchy of areas and units, from the 90 departments, down through the 300 arrondissements and 3000 cantons, to the 38000 communes. Moreover, it developed a hierarchy of field agents of the central government from the prefect in each department, down through the sub-prefect in the arrondissement, and a missing cantonal officer, to the mayor of the communes. Hardy Wickwar, "Patterns and Problems of Local Administration in the Middle East", Middle East Journal, XII, No. 3, (Summer, 1958), p. 250.

⁴ George Young, Corps De Droit Ottoman, (Oxford: The Clarendon Press, 1905), I, p. 28.

⁵ Wickwar, op. cit., p. 250.

from the wali in each vilayet, down through the mutasarrif in each sanjak, and a qaim maqam in each qada, a mudir in each nahiye, to the moukhtar for each religious community. Each of the wali, mutasarrif and qaim maqam had a majlis idari with both ex-officio members and representatives of the Moslem and Christian communities. Each kariye was to have an elective council of elders (ikhtiyars) who in turn were to be represented on a nahiye council. The porte appointed administrators at the top three tiers; those at the bottom two tiers were elected subject to administrative approval.⁶

Lebanon was divided under the vilayet system into the regular administrative sanjaks of Tripoli, Beirut and Sidon.

The Hatti-Cherif (ordinance) promulgated by the Sultan on November 8, 1864, provided that each sanjak, the administration of which, whether civil, financial or military were placed under the high authority of the wali. This governing agent had a mutasarrif nominated by an irada (a rescript emanating from the Sultan) and entrusted with the power to execute all the orders emanating from the Imperial Government as well as the instructions transmitted to him by the wali, relatively to his jurisdiction. He further exercised the executive power in the sanjak within the limits of certain attributions.⁷

The mutassarif was assisted by an administrative council consisting of the qadi of the central qada, the mufti of the chief

⁶Young, op.cit., pp. 29-69.

⁷Ibid., art. 29, p. 40.

town, the religious heads of the non-Moslem population, the assistant director of finance, the director of correspondence and 4 permanent members of whom two were Moslems and two non-Moslems. The council was presided by the mutasarrif and if not available or absent it was presided by members he would designate to represent him.⁸

The administrative council was entrusted with all that concerned the civil administration, finance and the levy of taxes, the police, public works, the dues of the 'vakoufs' the income of the 'tapou' or land property and agriculture. However, it was not allowed to exercise any intervention in the judiciary affairs. The qaim maqam (moawin or assistant of the mutasarrif) was entrusted with administering the civil affairs of the qada and helped the mutasarrif in the general administration of the sanjaks.⁹

The police force of the sanjak was under the control of the mutasarrif. The police officer of highest rank commanded the police of the sanjak and acted in conformity with police regulations under the orders of the mutasarrif.¹⁰

According to the ordinance of January 21, 1871, the administrative affairs of the sanjak were entrusted to the mutasarrif. He was responsible for financial questions and gendarmerie forces in the sanjak and also for the execution of civil and criminal sentences. He assumed with the wali the responsibility as to all duties relating

⁸Ibid., art. 33, pp. 40-41.

⁹Ibid., art. 34, p. 41.

¹⁰Ibid., art. 36, p. 41.

to the administration of the sanjaks. He fixed following prior authority from the wali the time for the meetings of the councils of the nahiyas, and upon request from the qaim maqams they reported to the wali the decisions of the said councils whose execution exacted and called for ratification by the central government of the vilayet. He authorised, after consultation with the administrative council of the sanjak, the execution of those which were in conformity to the general laws of the empire.¹¹

In addition, the mutasarrif put into effect the orders and instructions which were addressed to him by the wali and attended and watched the application of the laws in force, as well as the conduct of the officials of the sanjak. He reported to the wali the conduct of the officials who had contravened the laws and regulations and transmitted his remarks as to the extent of such contraventions and the mode of rectification. He further informed the wali of his views regarding the works of public utility.¹²

According to the ordinance, the administrative council of the sanjak controlled the revenues and disbursements of money, the revision of the accounts of saving fund, the superintending and up-keeping of the movable and immovable properties of the government, the examination of any jurisdictional disputes arising amongst the government personnel, the creation of the vicinity roads in the

¹¹Ibid., art. 35, 37, 41 and 42, p. 56.

¹²Ibid., art. 36, p. 56.

countries or qaim-makamiyahs, the conclusion of contracts and purchases.¹³

The council moreover deliberated on questions relating to agriculture, education, works of public utility and public health. The decisions were designated in "masbatas" which would be sent to the mutasarrif.¹⁴

One can notice from all this discussion that the law of 1871 was almost the same as that of 1864 but contained more elaborations as regards the responsibilities of the general council and the councils of the nahiyes. It also defined explicitly the relations of these councils to the office of the mutasarrif.

What about the autonomous sanjak of Mt. Lebanon? Salim I departed from Syria in 1517 after having fashioned Ottoman provinces out of the Eastern Arab World. However, one main event emerged in the 18th century as significant in the Lebanon.¹⁵ Ibrahim Pasha, the son of Mohammed Ali Pasha, the governor of Egypt, occupied the mountain in 1831. During the Egyptian occupation (1831-1840) inter-sectarian differences widened between the Druzes and Christians and subsequently

¹³Ibid., art. 90, p. 65.

¹⁴Ibid., art. 90, p. 65.

¹⁵The terms 'The Lebanon' and 'the Mountain' designated the area prior to the establishment of the French Mandate and the fixing of Lebanon's present boundaries. Since that date 'Mt. Lebanon' or 'the mountain' is used to denote the central district or muhafaza which approximates the former Ottoman administrative division. See: Clyde Hess and Herbert Bodman, "Confessionalism and Feudality in Lebanese Politics", Middle East Journal, VIII, No. 1, (winter, 1954), pp. 11-12.

after the evacuation of the Egyptian troops, the Druze leaders complained to the sublime porte that the Christian ruler of the mountain, Amir Qasim, was discriminating against them especially in tax matters because of their religion. In September 1841, the Ottoman governor of Beirut created a council for the mountain to hear complaints on taxes and consider a new taxing schedule. The council consisted of 3 Druzes, 3 Maronites, one Sunni, one Shii, one Greek Orthodox and one Greek Catholic. The solution was doomed to failure 9 days after the council had begun its deliberations because it failed to satisfy the Druzes.¹⁶

Thus, in 1842, a serious attempt was made to regularize the affairs of the mountain between the Porte on the one hand and France, England, Prussia, Austria, and Russia on the other. This arrangement consisted of dividing the Lebanon into two qaim maqamiyahs, a northern under a Christian qaim maqam (sub-governor) and a southern under a Druze qaim maqam, both responsible to the Sidon wali residing in Beirut.¹⁷ Moreover, the governor of Sidon, who was an Ottoman official, was granted the power of appointing the ruler of each district from the inhabitants of the area. This solution failed because it had neglected to face directly the fact that neither of the two districts was religiously homogenous; there were still mixed Druze and Maronite villages within each district whose affairs were

¹⁶Ibid., p. 12.

¹⁷Ibid., p. 12.

without any form of regulation.¹⁸ The new statute of 1845 established two councils, one in each of the qaim maqamiyahs and provided at the same time that membership in the councils should be apportioned among the sects. This meant that each qaim maqam was to be assisted by an administrative majlis.¹⁹

Following the mischievous events of 1859-1860, the French forces landed at Beirut in September 5, 1860. They did not withdraw until an agreement was reached after Turkish-European consultation with the Sublime Porte. The agreement which ensued with the statute of June 9, 1861, decided on the institution, with a 5-power guarantee and Turkish acquiescence, of an autonomous regime for Mt. Lebanon.²⁰ The special regime drafted in 1861, was established in final form in September 6, 1864. It lasted until 1912. The area covered excluded the city of Beirut and omitted also the major ports of Tripoli, Sidon, Tyre and the inlying plain of the Biqa.²¹

In many of its aspects, the statute of June 9, 1861, was the first truly organic law of the Lebanon. According to the first article, the entire mountain was placed under the rule of a single governor known as the mutasarrif who was to be a Christian and a non-Lebanese appointed by the Porte and approved by the Great Powers. He was vested with all the executive power, the responsibility of maintaining

¹⁸Ibid., p. 12.

¹⁹Ibid., p. 13.

²⁰Ibid., p. 13.

²¹Stephen Longrigg, Syria and Lebanon under the Mandate, (London: Oxford University Press, 1958), p. 22.

peace and order in the mountain and the collection of taxes. The Porte granted him the authority to appoint the local administrative officers and to install judges. The mutasarrif presided over the meetings of the central administrative council and executed the official orders of the courts. The inhabitants of the mountain were represented by the wuqala who were appointed by the notables of every sect.²²

The second article established the central administrative majlis representing the Maronites, Druzes, Greek Orthodox, Greek Catholics, Sunnis and Shiis by two members each. The functions of the elected council involved the power to distribute taxes, take care of the revenues and make suggestions on matters the mutasarrif brought forward.²³

The third article divided the mountain into six administrative districts, whereby each was to be administered by an administrative officer appointed by the mutasarrif from the sect possessing a local majority.²⁴

The fourth article stipulated that each district was to have an administrative council composed of 3-6 members.²⁵ Article 5 divided the district into nahiyes which in turn were subdivided into communities of 500 each. The mutasarrif appointed the mudir of the

²²Abdul Rahman Adra, The Protocol of Lebanon, (Beirut: Al Ittihad Press, 1952), p. 15.

²³Ibid., p. 15.

²⁴Ibid., p. 16.

²⁵Ibid., p. 16.

nahiye in accordance with the suggestions offered by the qaim maqam of the district. Moreover, the villages elected their own sheikhs who were to be subject to the confirmation of the mutasarrif.²⁶

Article 11 provided that all the members of the judiciary council, the judges of peace and the public servants were to be chosen by the notables and religious heads of the different sects subject to the approval of the mutasarrif.²⁷

Article 15 guaranteed that the mutasarrif could call for military help from Syria in extraordinary cases after consulting the central administrative majlis.²⁸

According to the confessional ratio, three of the districts were governed by Maronites, one by a Druze, one by a Greek Orthodox and one by a uniate or Greek Catholic.²⁹

Experience had disclosed defects in the practical working of the theoretical organization compiled by diplomatists ignorant of the public conditions in the Lebanon. The first mutasarrif of Lebanon, Daud Pasha, an Armenian Catholic, was responsible for the incorporation of the statute of 1864 which modified and simplified that of 1861.

The first article of the revision of September 6, 1864, continued to regard the Lebanon as administered by a Christian nominated by the Porte and responsible directly to him. As chief executive he collected taxes, appointed judges, executed tribunals' sentences,

²⁶ Ibid., p. 16.

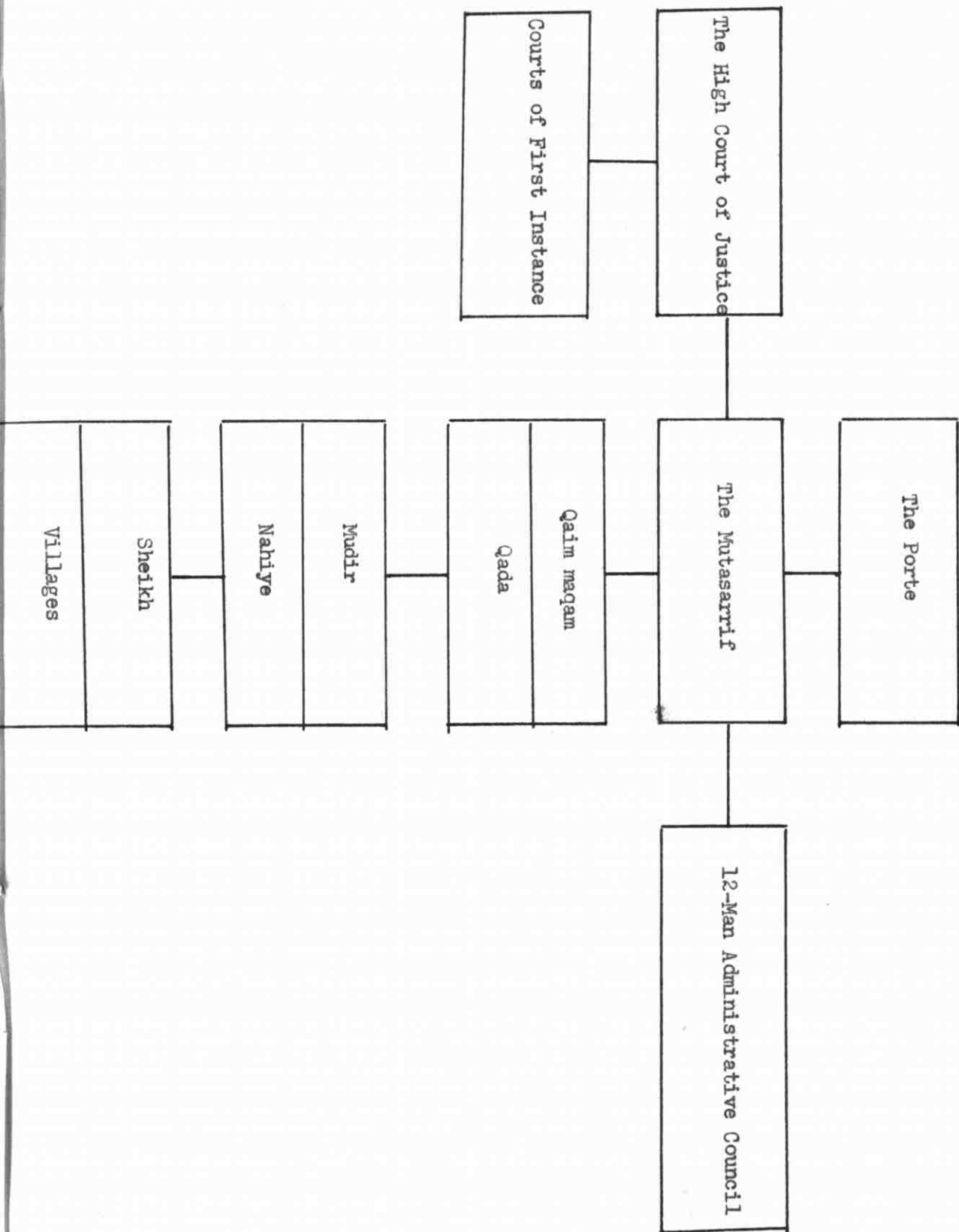
²⁷ Ibid., p. 17.

²⁸ Ibid., p. 18.

²⁹ William Miller, The Ottoman Empire 1801-1913, (Cambridge University Press, 1913), p. 303.

Chart No. II-1

Government and Administrative System of Mount Lebanon
under the Constantinople Protocol of
1864



maintained security and order, installed all the local officials, and called the central administrative majlis for holding meetings under his chairmanship.³⁰

The second article stated that an elective central council of 12 representatives from the different religious communities assisted the mutasarrif. It represented the Maronites, Druzes, Greek Orthodox, Sunni, and Shii by respectively 4, 3, 2, 1, 1 and 1 members. This council had the power to distribute the taxes, take care of taxation, and make suggestions on matters which the mutasarrif brought forward before it.³¹

Article 3 divided the mountain into 7 administrative districts (qadas) each under a qaim maqam appointed by the mutasarrif from the sect possessing the majority in each district. As determined by the prevailing religious denomination in each district, four of these subgovernors were Maronites, one Druze, one Greek Orthodox and one Greek Catholic.³²

According to article 4 each qaim maqamiyah was divided into nahiyes. The mudir of the nahiye was appointed by the mutasarrif upon the suggestion of the qaim maqam. The administration of local justice in each village was left in the hands of an elected sheikh subject to the confirmation of the mutasarrif.³³

³⁰ Adra, op.cit., p. 20.

³¹ Ibid., p. 20.

³² Shakir Al-Khoury, Majmah Almasarrat, (Beirut: Al-Ijtihad Press, 1908), p. 110.

³³ Adra, op.cit., p. 21.

Article 6 provided for the presence of 3 courts of first instance each comprising one judge, a waqil appointed by the mutasarrif and 6 wuqala dahawi chosen by one sect each. Moreover, there was to be a high court in the central administrative district appointed by the mutasarrif from the religious communities. The head of the high court was to be appointed by the mutasarrif. The court was to include 6 wuqala dahawi each elected by one of the major sects in addition to a seventh waqil representing the Israelites or Protestants whenever any of the latter two sects had an interest in a question discussed before the court.³⁴

Article 14 granted the governor the right to call for military help from Damascus whenever he needed it after consultation with the central administrative council.³⁵

Thus according to the new protocol of 1864, the tenure of the mutasarrif was extended from 3 to 5 renewable years. It allowed the governor to appoint a Maronite as a vice president of the central administrative council as a measure of justice to a sect who comprised 3/5 of the whole population of the mountain. Moreover it stipulated that a Maronite was to be the ruler of the newly created district.³⁶ The district councils were annulled while the districts were reorganized and divided into nahiyes similar to the practice prevalent in the

³⁴Ibid., p. 21.

³⁵Ibid., p. 23.

³⁶Ibid., p. 20.

country in 1842. The officer of the nahiye was appointed by the mutasarrif upon the suggestion of the mudir of the district. Moreover, the provincial council was so reorganized that out of 12 members 4 were Maronites, 3 Druzes, 3 Greeks of the two rites and two Moslems-- thus allowing each district to send a specified number of representatives to the central council which accorded with confessional representation.³⁷

The mutasarrif had the right to increase the amount of taxes to be levied and to double the number of the courts of first instance.³⁸ He was always elevated to the high rank of mushir or marshal. He possessed the right to ask the central administrative majlis to determine the salary of each employee in accordance with his ability. It was his duty to confirm the elections of the members of the council and the sheikhs of the villages and to supervise the work of all local officers including officers of the gypsies. In all matters brought before the council, the final decision was always to remain in the hands of the mutasarrif.³⁹ These overwhelming powers and responsibilities granted to the governor incline one to agree with a Lebanese scholar who maintained that "the mutasarrif held the most serious position in the world."⁴⁰

Slight changes were made in the statute of 1864 until 1912 when certain requests of the Lebanese were in part granted by the

³⁷ Ibid., p. 26 and pp. 20-21.

³⁸ Ibid., p. 22.

³⁹ Ibid., p. 31.

⁴⁰ Ibid., p. 32.

Porte and a new protocol was signed. The powers of the mutasarrif were thereby curtailed.⁴¹

With the entry of Turkey into the first world war, the period of the mutasarrifiyah in Lebanon came to an end. Ohanes Bey, an Armenian, and the last mutasarrif (1912-1915) was recalled before completing his term and was soon replaced in 1915 by Ali Munif according to orders issued by the Turkish Commander in Chief of the Fourth Army Jamal Pasha.⁴² In October 1915, the Lebanon was declared a normal sanjak, its autonomous status was abolished and a period of direct Turkish rule started and continued until the end of the first world war.⁴³

The Muharez under the French 1918-1943

After the end of the first world war and the defeat of Turkey, the Mandate over Lebanon was conferred upon France in accordance with a decision taken by the San Remo Conference which met on April 18, 1920.⁴⁴ A high commissioner was appointed by the mandatory power to advise, supervise and exercise ultimate authority in the area.⁴⁵

⁴¹Longrigg, op.cit., p. 23.

⁴²Chafic Jiha, Munir Baalbaki and Bahij Othman, Al-Mosawir: History of Lebanon, VIII, (Beirut: Darl-al-Elm Lil Malayeen, 1962), pp. 207-208, and pp. 229-230.

⁴³Longrigg, op.cit., p. 48.

⁴⁴Chafic Hatim, The Administrative Law, (Beirut: Bureau of Mandia, 1960), p. 27.

⁴⁵George Grassmuck and Kamal Salibi, A Manual of Lebanese Administration, (Beirut: Catholic Press, 1955), p. 3.

Moreover, on August 30, a decree was published establishing the state of Grand Liban whose boundaries extended beyond Mount Lebanon to include Beirut, Sidon, Tripoli and Biqa.⁴⁶

According to another decree dated September 1, 1920, executive power was bestowed upon a French governor whom the high commissioner appointed.⁴⁷ Grand Liban was divided into the four sanjaks of northern Lebanon, southern Lebanon, Mount Lebanon and Biqa, and the major cities of Beirut and Tripoli had an autonomous administrative status. In each sanjak, the Mutasarrif or local agent of the government was accompanied by an adviser. The old administrative council was revived in each sanjak but on the basis of nomination instead of election.⁴⁸

During the first years of the French regime each of the four sanjaks was headed by an appointed administrator designated as the mutasarrif. Each of the two autonomous cities was under the vigilance of an administrative governor whose position corresponded and was equivalent to that of the mutasarrif. The mutasarrif was considered the highest administrative official in the sanjak. He was entrusted with the necessary powers for the execution of the laws, decisions and regulations pertaining to the liwa. He was entitled to exercise constant surveillance over all the districts in his sanjak. He was responsible for the supervision of the courts' work and to inform the

⁴⁶Longrigg, op.cit., p. 123.

⁴⁷Grassmuck and Salibi, op.cit., p. 3.

⁴⁸Hatim, op.cit., p. 28.

French counsellor about any neglect of their duties. Moreover, he had to take any measure which preserved order and security throughout the region. In addition, he was required to report any protests or complaints which the inhabitants might present before him.⁴⁹

On April 9, 1925, Grand Liban was reorganized administratively, the autonomous cities and sanjaks were abolished and new circumscriptions called muhafazas were created. On the basis of the Arrete Grand Liban was divided into 11 muhafazas each administered by a muhafez who represented the central authorities in the area.⁵⁰

⁴⁹Ibid., pp. 27-29.

⁵⁰The Official Gazette, No. 1862, (April 21, 1925), art. 2 and 3, p. 1.

According to arrete No. 3066, April 9, 1925, the administrative divisions were the following:

The muhafaza of Beirut

The muhafaza of Tripoli which included the directorates of Tripoli, Zgharta, Halba, Kibbiat and Sir.

The muhafaza of Al-Batroun which included the directorates of Amyoun, Bishirri, and Duma.

The muhafaza of Kisrawn which included the directorates of Jubail, Reyfoun, Kfour and Kartaba.

The muhafaza of Al-Matn which included the directorates of Bikfia, Shouwair, Biskinta, and Hamman.

The muhafaza of Al-Couf which included the directorates of Al-Moukhtara, Shihim, Ain-Zhalta, Rashmaya, Shouweifat and Aley.

The muhafaza of Ba'albek which included the directorates of Talia, Dayr al-Ahmra, Hermel and Ras Baalbeck.

The muhafaza of Zahla which included the directorates of Kib-Elias, Sighbin and Rachaya.

The muhafaza of Saida which included the directorates of Al-Nabatiya, Adlon and Jezzine.

The muhafaza of Tyre which included the directorates of Tibnin and Alma al-Sha'ab.

The muhafaza of Marjiyoun which included the directorate of Hasbayya.

Dair Al-Kamar, an autonomous nahiya headed by a mudir was granted a special status.⁵¹ The muhafez was appointed and dismissed by the governor to whom he was responsible for public security in the region.⁵² He was required to keep vigilance over the strict application of laws and regulations, for the good functioning of all public services in the region, and for assistance in the collection of taxes.⁵³ The muhafez exercised all the powers attributed to the mutasarrifs and administrative governors in matters relating to municipal questions.⁵⁴

The muhafez was assisted by an administrative local council which consisted of the head of the secretariat of the muhafaza, the muhasseb (both were ex officio members), and 6 notables--all being under the chairmanship of the muhafez, or his delegate.⁵⁵ Two notables were appointed by the governor while the other four were chosen for a period of two years by an electoral college constituted of sheikhs of justice, members of the municipal councils and moukhtars. The governor could collectively repeal the mandate of elected members of the administrative councils in the muhafaza for reasons relating

⁵¹Ibid., art. 3, p. 1.

⁵²Ibid., art. 6, p. 1.

⁵³Ibid., art. 6, p. 1.

⁵⁴Ibid., art. 6, p. 1.

⁵⁵Ibid., art. 7, p. 1.

to order or public interest. Moreover, any elected member who was incompatible or ineligible either because he was under judicial interdiction or condemned to imprisonment due to the commitment of a crime or serious offense was released from his post upon the request of the muhafez.⁵⁶

The functions of the administrative council embraced the legislation of all acts of security and certificates concerning the status of wealth, the fixing of tariffs for liquor and spirits, and the appointment of experts in questions related to possessions which were forfeited because of their importance to the public interest.⁵⁷ It took decisions with the approval of the governor on the collection of taxes, the validity of the elections of the moukhtars and matters of adjudication.⁵⁸ Moreover, the administrative council rendered its opinions on questions affiliated to a public utility, the building of restaurants for selling liquor and alcohol, the establishment of places for prostitution, the selection of land for building graves and tombs, opening roads among the villages, levying extraordinary fees, and on all problems submitted to it for examination by the muhafez.⁵⁹

The governor appointed the mudir of the nahiye after consultation with the muhafez.⁶⁰ The mudir was responsible before the muhafez

⁵⁶Ibid., art. 11, p. 2.

⁵⁷Ibid., art. 25, p. 3.

⁵⁸Ibid., art. 26, p. 3.

⁵⁹Ibid., art. 27, p. 3.

⁶⁰Ibid., art. 34, p. 3.

for the public security of the nahiye.⁶¹ The muhafez was considered the president of the voting bureau in the central district and was assisted by a judge of first instance appointed by the minister of justice and two other members appointed by the muhafez from electors present at the opening of the polls. In his capacity as president of the voting bureau, the muhafez alone possessed the power of keeping order within the polls.⁶²

The regulatory decree, dated November 17, 1927, spelled out in detail the functions of the muhafez. He was regarded as the official of the highest rank in the region, and, therefore, was vested with all the executive power. Being the direct representative of every ministry, it was through him that all laws, decrees, regulations and instructions issued by the ministers were transmitted to the various departments whence he became responsible for their executions. Direct correspondence between the administrative employees in the mahafaza and their ministries could take place only when there was a need for quick action provided a copy of the correspondence was sent to the muhafez.⁶³

The efforts of the muhafezin had been directed in particular to the keeping of public security and order, the safeguarding of personal liberty and the inviolability of homes, the collection of

⁶¹Ibid., art. 35, p. 4.

⁶²Ibid., art. 16, p. 2.

⁶³The Official Gazette, No. 2122, (November 21, 1927), art. 1, p. 5.

taxes, the improvement of the standard of living among the inhabitants of the villages, the education of people in order to follow appropriate health practices, and the assistance of the regions falling within the scope of their authority in the field of economic development.⁶⁴

The muhafez was enabled to ask the employees at any time to present before him reports about the functioning of work within their departments since the latter were put under the muhafez's direct supervision. He was called upon to express his opinion in any appointment, dismissal, or transfer among workers, clerks, mudirs, police forces or gendarmerie.⁶⁵ Moreover, he was consulted before any disciplinary action was taken against any worker. As the representative of the central authorities, the powers of inspection over the actions of all civil servants were conferred upon the muhafez irrespective of the administration that these officials belonged to. Moreover, no administrative or financial department was exempted from his supervision. It was the duty of all employees to respect the orders issued by the muhafez in relation to questions concerning the public interest in so far as these orders were not in contradiction with the instructions of their supervisors.⁶⁶

The muhafez could take through a written request all the necessary precautions which circumstances demanded for the purpose of maintaining public order in the muhafaza.⁶⁷ It was the responsibility of the

⁶⁴ Ibid., art. 2, p. 5.

⁶⁵ Ibid., art. 3 and 5, p. 5.

⁶⁶ Ibid., p. 4.

⁶⁷ Ibid., p. 4.

muhafez to accomplish the functions which were entrusted to him in the penal law. For this purpose, any muhafez was allowed to negotiated with the public prosecutors (attorney generals) who represented the government in the courts of the regions with respect to all questions of importance to the central authorities especially in matters relating to public order and security. On the one hand, it was the duty of the attorney general to present before the muhafez all the information that the latter asked for in accordance with the stipulations mentioned in the penal law. On the other hand, it was the right of the muhafez to call the attorney general to supply him with information on all the questions that the courts had rendered their decision in.⁶⁸

The muhafez was entitled to visit at least once a month every prison in the region for purposes of inspection. Wheny any misuse of power was revealed, the muhafez undertook any kind of investigation which he considered as useful and thereby suggested to the minister of interior all the appropriate punishments.⁶⁹

In case any faults were committed by members of the gendarmerie forces in the course of their duties, a report was referred by the muhafez to the minister of interior who in turn ordered the chief of the gendarmerie to take the necessary action against the doer.⁷⁰

⁶⁸ Ibid., art. 4 and 6, p. 5.

⁶⁹ Ibid., art. 7, p. 5.

⁷⁰ Ibid., art. 7, p. 5.

The muhāfez exercised constant and vigilant surveillance over the municipalities within his jurisdiction. He was allowed to attend the sessions of the municipal councils at any time for the purpose of supplying information, the suggestion of developmental plans and for hearing explanations or objections from the members of the municipal councils. Moreover, it was the muhāfez who suggested the appointment of the heads of the municipalities and members of municipal committees in addition to the appointment of members in committees responsible for common property.⁷¹

A session was held every week under the chairmanship of the muhāfez in the presence of all the heads of administrative services in the region including the gendarmerie officers and the chiefs of police. The date for holding each session was appointed after consultation with the minister of interior. The purpose behind the meetings was to inform the muhāfez how collections of taxes proceeded, the degree of effectuating the work in each department, and the healthy condition of the muhafaza. After the session a report was prepared and sent to the minister of interior and other affected ministers. However, the interference of the muhāfez in questions relating to specialized activities, was limited only to the expression of his opinion.⁷²

The muhāfez had to inspect twice a year in a time appointed

⁷¹Ibid., art. 8, p. 5.

⁷²Ibid., art. 9, pp. 5-6.

after agreement with the minister of interior, all the administrative and financial services in the region. The inspection culminated in a report presented to the minister of interior embodying detailed information about the economic and political conditions, the collection of taxes and the ability of the employees working under his supervision in addition to the suggestions or proposals that he recommended.⁷³

The muhafez had to meet once every two months the mudirs of the nahiyas who were subject to his authority in order to study with them the needs of the nahiyas. He issued to them the instructions which conditions necessitated. Then a report was prepared after the meeting about the discussions and was transmitted to the minister of interior.⁷⁴ The mudir was responsible to the muhafez for the execution of laws and regulations, the collection of taxes, the keeping of order, the supervision of the activities of the mayors of the municipalities of the nahiya, surveillance over the work of the moukhtars and councils of elder, and for any neglect of work by any body who fell within his jurisdiction.⁷⁵ Moreover, all the correspondence transmitted by the mudir to the higher authorities as well as the orders he received from administrative superiors was done through the muhafez.⁷⁶

The legislative decree No. 5, dated February 3, 1930, provided

⁷³Ibid., art. 11, p. 6.

⁷⁴Ibid., art. 10, p. 6.

⁷⁵Ibid., art. 12, 14, 15, 16, p. 6.

⁷⁶Ibid., art. 12, p. 6.

the last major step in the administrative reorganization of the Lebanese Republic which had come into existence after the proclamation of the constitution in May 23, 1926.⁷⁷ According to the decree, the Lebanese territory was divided into the muhafazas of North Lebanon, South Lebanon, Mount Lebanon, Beirut and the Biqa which in turn formed 18 qadas.⁷⁸

Every muhafaza was governed by a muhafez and every qada was administered by a qaim maqam. The muhafez was the direct representative of the government in the region. He was appointed and dismissed on the basis of a decree taken by the council of ministers. He was responsible for the execution of all the laws, regulations, instructions and arretes issued by the ministers to the different administrative departments of the region.⁷⁹ Moreover, he was permitted to exercise in the central district the functions given to the qaim maqams in the qada. Correspondence relating to ordinary questions took place directly between the ministries and their functionaries in the muhafazas.⁸⁰

The muhafez was responsible in particular for the preservation

⁷⁷Subhi Mahmassani, the Constitution and Democracy, (Beirut: Dar-el-Elm Lil-Malayeen, 1952), p. 60. From May 23, 1926 Grand Liban came to be known as the Lebanese Republic.

⁷⁸According to the decree No. 5, 1930, the muhafaza of Southern Lebanon included the qadas of Sidon, Tyre, Marjayoun and Jezzine; that of Mount Lebanon included the qadas of Baabda, Metn, Kessrwan, Chouf and Aley; Northern Lebanon included the qadas of Tripoli, Akkar, Zgharta, Batroun and Koura; Biqa included the qadas of Zahla, Baalbek, Hermel, and Rachaya, and the muhafaza of Beirut which included no qada. The Official Gazette No. 2304, February 12, 1932, art. 1 and 2, p. 2.

⁷⁹Ibid., art. 4, and 6, p. 2.

⁸⁰Ibid., art. 4 and 7, p. 2.

of public security and order, the safeguarding of individual liberty and the inviolability of homes, for the collection of taxes, raising the standard of living among the inhabitants of the villages, the spread of education and maintenance of appropriate healthy conditions and the assistance of the region falling within his jurisdiction in the field of economic development.⁸¹

The muhafez was granted the power to ask the employees to submit reports at any time about the functioning of work within their departments since the latter were subject to his direct supervision. He was called upon to express his opinion about any appointment, dismissal or transfer among all functionaries whether mudirs, clerks or workers. Moreover, he was consulted before any disciplinary action was taken against any employee.⁸² As an officer of the judiciary police the muhafez undertook the duties which were given to him by the penal law in force.⁸³ All nominations and transfers of officers were, beforehand, submitted to the muhafez although the minister of interior gave the final decision. All plans to move the units of gendarmerie or police were equally presented before they were approved by the qualified authorities.⁸⁴ He could take through a written request to the gendarmerie and police forces all the necessary pre-

⁸¹ Ibid., art. 8, p. 3.

⁸² Ibid., art. 9, p. 3.

⁸³ Ibid., art. 10, p. 3.

⁸⁴ Ibid., art. 11, p. 3.

cautions which circumstances demanded for the purpose of keeping public order.⁸⁵ In addition, he was allowed to negotiate with the public prosecutors who represented the government in the tribunals of the regions with respect to all matters of importance to the government especially questions relating to public security. On the one hand, it was the duty of the attorney general to submit to the muhafez all the information that the latter asked for in accordance with the stipulations mentioned in the penal law. On the other hand, it was the right of the muhafez to require the attorney general to supply him with all schedules and statistical information on all the questions that the courts had rendered their decision in.⁸⁶

The muhafez was entitled to visit at least once every month any prison in the region for purposes of inspection. In case of misuse of power, he could ask for making any kind of investigation he considered as useful and thereby, suggested to the minister of interior all the necessary punishments. However, if any member of the gendarmerie forces committed any fault, the muhafez reported such infraction to the minister of interior who in turn ordered the chief of the gendarmerie to take the appropriate action against the offender.⁸⁷

The muhafez had to meet every 15 days with all the heads of the administrative services (with the exception of the heads of the judiciary branches) under their jurisdiction to discuss how collection

⁸⁵ Ibid., art. 10, p. 3.

⁸⁶ Ibid., art. 12, p. 3.

⁸⁷ Ibid., art. 13, p. 3.

of taxes proceeded, the degree of the implementation of work in each department, the healthy conditions, and the necessary measures needed to promote public order.⁸⁸ The interference of the muhafez in questions relating to activities which required expert knowledge was restricted only to the express of his opinion. After the session a report was prepared and transmitted to the minister of interior and other concerned ministers.⁸⁹

The muhafez met every 3 months with the qaim maqams of his region to examine the situation in the qadas and issued to them all the necessary directions. Then a report was prepared at the end of the meeting and was sent to the minister of interior.⁹⁰ Moreover, he had to make two inspection tours every year over the activities of the administrative and financial services in the muhafaza. This type of general inspection resulted in the preparation of a report embodying detailed information about the economic and political conditions, the collection of taxes and the ability of the employees working under his supervision. The report which included the comments of the muhafez was then referred to the minister of interior.⁹¹

The muhafez was the ex officio president of the municipal council of the chief town in his region. He controlled the municipal affairs of the central district and assisted other municipalities at council meetings in making suggestions or hearing complaints. He

⁸⁸Ibid., art. 15, p. 3.

⁸⁹Ibid., art. 15, p. 3.

⁹⁰Ibid., art. 16, p. 4.

⁹¹Ibid., art. 17, p. 3.

nominated also the mayors of municipal councils and members of the municipal commissions after consultation with the qaim maqam.⁹² The moukhtars were appointed by the minister of interior upon the recommendation of the muhafez.⁹³

The qaim maqam (moawin of the muhafez) was appointed and dismissed upon the suggestion of the minister of interior who consulted the muhafez before submitting his proposal. The letters addressed by the qaim maqam to the higher authorities as well as the orders he received were made through the muhafez. He represented the muhafez in the qada and was responsible to him for the actions of the municipalities; the execution of laws and regulations; the collection of taxes; the inspection of the activities of guards, moukhtars, and councils of elder; and for the maintenance of order and public security.⁹⁴

The administrative council of the qada was presided by the qaim maqam and included the first secretary of the qada and ma'amour el-mal as ex officio members. The other members were six in number, two of which were appointed by the minister of interior while the other four were elected for a period of four years by an electoral college composed of the moukhtars and the members of the municipal councils. The law, however, allowed the muhafez to object against the results of the elections to the council 30 days after the pro-

⁹²Ibid., art. 14, p. 3.

⁹³Ibid., art. 54, p. 4.

⁹⁴Ibid., art. 18, 19, 21, p. 4.

nouncement of the final results.⁹⁴

A comparison between arrete No. 3066 dated April 9, 1925 and the regulatory decree No. 2390, dated November 17, 1927 on the one hand and the legislative decree promulgated on February 3, 1930 on the other revealed that the functions of the muhafez in both were nearly the same. However, it was noted that the regional councils of the muhafaza which existed prior to 1930 were replaced by the councils of the districts in the qadas. The nahiyas were also abolished and administrative districts known as the qadas were established. In addition, the 13 administrative regions which constituted Grand Liban prior to 1930 were reduced to 5 muhafazas according to the legislative decree of 1930 which was the first decree to reorganize administratively the lands of the Lebanese Republic that came into existence in 1926.

The Relationships between the Muhafezin and the Municipalities during the French Mandate:

The four centuries of Ottoman rule from 1517 to 1918 served as a significant era because the patterns of local government which the Turkish law of 1877⁹⁵ recognized and established, continued to exist during the French regime after slight modifications.

The municipal affairs during the mandate were supervised and controlled through the ministry of interior by means of local agents

⁹⁴Ibid., art. 24-40, p. 4.

⁹⁵Walter H. Ritcher, Municipal Government in the Lebanon, (Beirut: American Press, 1932), p. 1.

in the regions.⁹⁶ These local agents of the central authorities exercised extensive powers over the municipalities falling within their jurisdiction.

Hence, the purpose of this section is to reflect and show the high degree of centralization which prevailed during the twenty-three year mandate period (1920-1943) by means of examining the powers given to the muhafez with respect to municipal administration. To achieve such objectives, I depended in this study upon arrete No. 1208, dated March 10, 1922, legislative decree No. 5, dated February 3, 1930, and decree 32 L. of September 15 which was promulgated by the President of the Republic Mr. Charles Dabbas on the proposal of the Director of Interior Mr. Subhi Abu Al-Nasr in virtue of the powers bestowed upon them by the decrees of the High Commissioner of May 9, 1932.

The mayor was allowed to issue arretes giving effect to local measures concerning the objects entrusted to his vigilance and authority and arretes publishing new laws and police regulations and calling the citizens to their observance.⁹⁷ Arretes issued by the mayor were despatched immediately to the muhafez who forwarded them to the director of interior with his comments thereon. Arretes not containing permanent regulations were definitive and executory 15 days after their despatch to the muhafez.⁹⁸

⁹⁶ Ibid., p. 1.

⁹⁷ Compilation of Resolutions for the State of Grand Liban, March 1922-April 1922, (Beirut: Adab Press, 1922), Arrete No. 1208, March 10, 1922, art. 70, p. 75.

⁹⁸ The Official Gazette, No. 2713, Legislative Decree 32L, (September 15, 1932), art. 13, p. 4.

Every municipality not enjoying the services of the state police was permitted to have one or more municipal guards. They were nominated by the mayor subject to the approval of the muhafez who confirmed their appointment within a period of one month. Although the mayor could suspend them for one month, the dismissal of any guard was done only by the muhafez.⁹⁹

Moreover, no municipality enjoyed the right to institute action in justice without authorization of the muhafez. The muhafez used to render his decision within two months failing which the municipality proceeded.¹⁰⁰

No judicial action other than possessory was instituted against a municipality except when the claimant had previously presented a memorandum without prejudice to his rights. The presentation of the petition interrupted any prescription or forfeiture if it was followed by a demand in justice within 3 months.¹⁰¹ The muhafez immediately transmitted such petitions to the mayor with a request that the council had to be convoked for deliberation thereon.¹⁰²

The muhafez was authorized to write into the budget all the obligatory municipal expenditures which consisted of the following:¹⁰³

⁹⁹Compilation of Resolutions for the State of Grand Liban, op.cit., art. 76, p. 78.

¹⁰⁰Ibid., art. 85, p. 80.

¹⁰¹Ibid., art. 86, p. 80.

¹⁰²Ibid., art. 87, p. 80.

¹⁰³Ibid., art. 89, p. 81.

1. Maintenance of a municipal building or rooms used for that purpose.
2. Payment of demandable debts.
3. Expenses of municipal administration, the salaries of the secretary, treasurer, and other employees.
4. Expenses of maintaining, cleaning and lighting the streets.
5. Expenses of establishing and maintaining plans for aligning and leveling the streets.
6. Cost of subscription to and proper care of the official journals of the republic (both Arabic and French).
7. Portions of expenses of state police allocated to the municipality in the state budget.
8. Rent, cost of furnishing, lighting, and heating of posts of gendarmerie.
9. Any expenses incurred through necessity for the muhafez to act owing to failure of local authorities to perform their functions and in general any expenses charged to municipalities by the disposition of any law or regulation.

In case of any proposed change of municipal status affecting the territorial limits the muhafez was allowed to order a special investigation into the facts in the municipalities concerned if demanded by any municipal council involved or by one-third of the registered electors. He might likewise act upon his own initiative. The final decision was taken by the President of the Republic after

study of the dossier of inquiry.¹⁰⁴

The muhāfēz could divide any municipality into wards if composed of several district and separated communities, as in the case of joint incorporation or if possessing a population more than 5000. Each ward would then elect a number of councillors proportional to the number of inscribed electors in the electoral district.¹⁰⁵ Division into wards was done by the muhāfēz either upon his own initiative or upon the request of the administrative commission of the district, the municipal council concerned, or the electors themselves. The muhāfēz divided the wards into voting precincts, each of which voted on the general ticket of the entire municipality or ward of which it was a part.¹⁰⁶ In each precinct the muhāfēz designated the polling place.¹⁰⁷ He likewise appointed a president for each voting bureau or precinct.¹⁰⁸

The suspension of the mayor subject to immediate reference to the central authorities fell within the jurisdiction of the muhāfēz.¹⁰⁹ The latter undertook such action in cases where the mayor had been indicted for crime.¹¹⁰ The muhāfēz appointed a special delegate to carry out the prescribed duties of the mayor in case of the latter's

¹⁰⁴ Ibid., art. 6, pp. 53-54.

¹⁰⁵ Ibid., art. 15, p. 56.

¹⁰⁶ Ibid., art. 15, and 17, pp. 56-57.

¹⁰⁷ Compilation of Resolutions for the State of Grand Liban, March 1922-April 1922, op.cit., Arrete No. 1307, March 10, 1922, art. 45, p. 35.

¹⁰⁸ Ibid., art. 49, p. 36.

¹⁰⁹ Ibid., Arrete No. 1208, art. 61, p. 72.

¹¹⁰ Ibid., art. 24, p. 60.

refusal or failure to carry out any of his stipulated functions.¹¹¹ Moreover, the muhafez was granted the authority to suspend any municipal council for a period of one month. The suspension was renewed twice by authorization of the director of interior.¹¹²

In addition, the muhafez was the ex officio president of the municipal council of the chief town in his region.¹¹³ He controlled the municipal affairs of the central district and assisted other municipalities at council meetings in making suggestions or hearing complaints.¹¹⁴ At times the laws gave him the power of nominating the mayors of the municipal councils and members of the municipal commissions.¹¹⁵

The calling of a meeting of a municipal council was mandatory upon the written request of the muhafez or one-third of the members of the council. The written summons had to be addressed to each councilman at least three days before the scheduled meeting.¹¹⁶ In cases of urgency the period was reduced to twenty-four hours in which case the council decided at the opening of the session whether the matter at hand was sufficiently urgent to warrant such a summons.¹¹⁷ Further, in such cases, the muhafez could require upon his initiative or upon the request of a councilman, a second deliberation upon the

¹¹¹ Ibid., art. 63, p. 72.

¹¹² Ibid., art. 31, pp. 61-62.

¹¹³ The Official Gazette, No. 2304, op.cit., art. 14, p. 3.

¹¹⁴ Ibid.

¹¹⁵ Ibid.

¹¹⁶ Compilation of Resolutions for the State of Grand Liban, March 1922-April 1933, op.cit., Arrete No. 1208, art. 33 and 34, p. 62.

same subject.¹¹⁸

The meetings of the municipal council were private. The muhafez, the qaim maqam and the French counsellor were ex officio members.¹¹⁹ Counsellors absent from three successive meetings were dismissed by the muhafez after they had been called for an explanation.¹²⁰ Resignations were addressed to the muhafez and were effective upon acknowledgment thereof. Failing acknowledgment a new resignation had to be despatched by registered mail and became automatically effective one month from the date of mailing.¹²¹

The council rendered its decision on all the affairs of the municipality and acted in an advisory capacity to the central authorities including the muhafez upon their request or when required by law. It likewise recorded its opinion on any matter of local interest and appointed or prepared lists of nominees for some positions according to the laws in force. It inspected the budget and accounts of the mayor and municipal treasurer. By authorization of the muhafez it communicated with other municipalities on matters of common interest.¹²²

The decisions of the council having executory character without specific approval of the central authorities were effective within

¹¹⁷ Ibid., art. 34, p. 63.

¹¹⁸ Ibid., art. 34, p. 63.

¹¹⁹ Ibid., art 36, pp. 63-64.

¹²⁰ Ibid., art. 44, p. 66.

¹²¹ Ibid., art. 43, pp. 65-66.

¹²² The Official Gazette, No. 2713, op.cit., legislative decree 32L., art. 6, p. 2.

15 days after receipt by the muhafez. However, during that time they could be vetoed by the muhafez for violation of the law. Likewise, the muhafez suspended the execution for a further period of 8 days when he so wished. In cases of urgency, the muhafez ordered immediate execution which gave the decision executory character before the expiration of the fifteen-day delay required for the presentation of protests and appeals.¹²³ The following subjects fall within this category:¹²⁴

1. Methods of administration of communal property.
2. Conditions of lease or rental of municipal property for periods not exceeding 18 years in case of rural or agricultural property and 9 years in case of all other property.
3. The acquisition of immovable property when the total cost, including all other acquisitions voted in the same financial year, did not exceed one tenth of the ordinary resources.
4. Projects for major reparations or maintenance when the total expense of all such expenditures for the fiscal year did not exceed one fifth of the ordinary revenues, nor, in any case, exceeded the sum of L.L. 2500.
5. The maintenance of public buildings.
6. The appropriation to municipal use the municipal property which had not been used for public purposes.

¹²³Ibid., art. 8, p. 3.

¹²⁴Ibid., art. 8, p. 3.

7. The acceptance of gifts and legacies received without charge, condition or changeable designation, provided the gift or legacy had not been subject to reclamation by the families affected.

However, there were certain decisions of the council having executory character only after the approval of the central authorities. Two copies of every arrete issued by the municipal council were sent by the mayor to the muhafez within 8 days after its passage. A report was then transmitted by the muhafez to the directorate of interior embodying his opinion in detail about any of the following subjects:¹²⁵

1. The municipal budget.
2. The municipal taxes.
3. The tariffs and regulations for the collection of all municipal revenues.
4. Special taxes and loans.
5. Conditions of lease or rental of municipal property for periods exceeding 18 years in the case of rural property and 9 years in case of all other property.
6. The selling or exchange of municipal property.
7. The acquisition of immovable property, new construction or reconstruction in whole or in part, or plans for maintenance of public buildings, or reduction of the expenses exceeding the fiscal

¹²⁵Ibid., art. 7, p. 3.

limits set in items 3 and 4 of article 47.¹²⁶

8. The resolving of disputes and conflicts among municipalities.
9. Change in use of public property already utilized in public service.
10. Any change in the conditions or status of public roads, highways, gardens, market places, shooting and race courses, etc.
11. The acceptance of gifts and legacies received with charge, condition or changeable designation as well as the acceptance of legacies and gifts subject to reclamation by the families.
12. Establishment, change, or suppression of markets other than simple provision markets.

Moreover, in municipalities of 25,000 and above, the muhafez was charged with the functions of the mayor.¹²⁷ When the latter case prevailed, he acted in the dual capacity of the head of the municipal government and agent of the central authorities. The more important of his duties as mayor were the following:¹²⁸

¹²⁶Item 3 allowed for the acquisition of immovable property when the total cost, including all other acquisitions voted in the same financial year, did not exceed one tenth of the ordinary resources; item 4 allowed for major reparations or maintenance when the total expense of all such expenditure for the fiscal year did not exceed one-fifth of the ordinary revenues, nor in any case exceeded the sum of L.L. 2500. Ibid., art. 8, p. 3.

¹²⁷Compilation of Resolutions for the State of Grand Liban, March 1922-April 1922, op.cit., Arrete No. 1208, art. 55 and 67, pp. 70-74.

¹²⁸Ibid., art. 55 and 67, pp. 70-74.

1. The conservation and administration of municipal property.
2. Administration of revenues and supervision of accounts.
3. Preparation of the budget.
4. Direction of public works.
5. Supervision of municipal highways.
6. Signing of contracts or leases for the municipality or adjudication concerning public works.
7. Signing of all acts of sale, exchange, apportionment, acceptances of gifts or legacies, and other acquisitions.
8. Regulation of the burial procedure.
9. Execution of all the decisions of the municipal council.

As an agent of the central government when acting in his capacity as a mayor, the muhafez was charged with the publication and execution of the laws and regulations, with all measures for general security not entrusted by the laws to the police services and with the execution of any special functions provided by law or regulations.¹²⁸ Likewise, he was entitled to issue arretes giving effect to local measures concerning objects brought under his vigilance and authority, and arretes publishing new laws and police regulations and calling the citizens to their observance.¹²⁹ Moreover, in his character as agent of the central police service, the muhafez issued orders having the force of police regulations. The most important of these involved

¹²⁹Ibid., art. 55 and 68, pp. 71-74.

¹³⁰Ibid., art. 55 and 70, pp. 71-75.

the following:¹³¹

1. Regulation of every thing which affected free and undisturbed passage in the public streets, as destruction of dangerous structures, danger from falling articles, obstruction of passage, etc.
2. Maintenance of public order through avoidance of quarrelling, rioting, troublesome assemblages, nocturnal disturbances...
3. Maintenance of order on all occasions of public assemblage.
4. Procedures for funeral rites as affecting public order.
5. Inspection of weights and measures, and the honesty of such transactions.
6. Precautionary and relief measures at times of public catastrophe as fires, floods, epidemics, and accidents of all sorts.
7. Provisional disposal of insane persons who threatened public order or morals.

- As municipal executive, the muhafez was granted the power to appoint, with powers of suspension and removal, all municipal employees for whom a special mode of appointment had not been fixed in the laws.¹³²

However, in no case was he able to delegate any of his functions to any body when serving as a municipal executive.¹³³

¹³¹Ibid., art. 71, pp. 75-76.

¹³²Ibid., art. 65, p. 73.

¹³³Ibid., art. 56, p. 71.

SUMMARYThe Mutasarrif during the Turkish Regime:

The Lebanese republic in its present boundaries was divided under the Turkish rule into the administrative units or sanjaks of Tripoli, Sidon and Beirut plus the autonomous sanjak of Mt. Lebanon which enjoyed a special status.

The sanjaks of Tripoli, Beirut and Sidon were subject to the vilayet law of 1864, spelled out in the vilayet administration law of 1871. Thus according to the law of 1864, the mutasarrif was entrusted with the power of executing all the orders emanating from the Imperial Government as well as the instructions transmitted to him by the wali relatively to his jurisdiction. The law stated in general terms that the mutasarrif was assisted by an administrative council which was entrusted with all that concerned the civil administration, finance, levying of taxes, public works and agriculture.

The vilayet law of 1871 was almost the same as that of 1864 but contained more elaborations in connection with the responsibilities of the administrative council, the councils of the nahiyes and their relationship to the office of the mutasarrif. The law allowed the mutasarrif to fix the times for the meetings of the councils of the nahiya, and upon request from the qaim maqam they reported to the wali the decisions of these councils whose execution was exacted and called for ratification by the central government of the vilayet. The ordinance made it clear that the administrative council of each sanjak

controlled the revenues and disbursements of money, the revision of the accounts of the saving fund, the upkeep of the movable and immovable properties owned by the government, the examination of any jurisdictional disputes arising among the government personnel, the supervision of inter-municipal roads and the conclusion of contracts and purchases. Moreover, it was allowed to discuss questions relating to agriculture, education, public health and works of public utility.

The autonomous sanjaks of Mt. Lebanon enjoyed a special status. Ibrahim Pasha, son of Mohammed Ali Pasha, the governor of Egypt occupied the mountains in 1831. During the Egyptian occupation (1831-1840) intersectarian differences widened between the Christians and Druzes and subsequently after the evacuation of the Egyptian troops, the Lebanon was divided into two qaim maqamiyahs, a northern under a Christian qaim maqam and a southern under a Druze qaim-maqam, both responsible to the Sidon wali who appointed the subgovernor of each district. Since this solution failed, a new statute was issued in 1845 establishing two councils, one in each of the qaim maqamiyahs, in an effort to represent local wishes.

Following the mischievous events of 1859-1860, the French forces landed at Beirut and did not withdraw until an agreement was reached on the institution of an autonomous regime for Mount Lebanon. The special regime drafted in 1861, was established in final form in September 6, 1864, and lasted until the eve of the first World War.

The government of Lebanon under the statute of September 6, 1864 was vested in a Christian governor appointed by the Porte, but in effect chosen by the powers. He was always elevated to the rank of mushir, or marshal, and was assisted by an administrative council representing the Maronites, Druzes, Greek Orthodox, Greek Catholic, the Sunni and Shii communities by respectively 4, 3, 2, 1 and 1 members. The qaim maqams of the seven qadas were similarly provided but in fact had little weight for the governor was all powerful. The public force, under the control of the mutasarrif, was wholly recruited in the sanjak, where no Turkish soldier was permitted to set foot, and where compulsory service in the Turkish armies was not demanded.

The Muhafez under the French 1918-1943:

After the end of the first World War and the defeat of Turkey, the mandate over Lebanon was conferred upon France pursuant to a decision taken by the San Remo Conference which met on April 18, 1920.

During the first years of the French regime each of the four sanjaks of northern Lebanon, Southern Lebanon, Mount Lebanon and Biqa was headed by an appointed administrator designated as the mutasarrif. The major cities of Beirut and Tripoli, which had an autonomous administrative status, were administered by two governors whose position corresponded and was equivalent to that of the mutasarrif.

On April 9, 1925, Grand Liban was reorganized administratively, the autonomous cities and sanjaks were abolished and eleven new circumscriptions called muhafazas were created. Soon legislative decree

No. 5, dated February 3, 1930, provided the last major step in administrative reorganization of the Lebanese republic which had come into existence after the proclamation of the constitution in May 23, 1926. The Lebanese territory was divided into the muhafazas of North Lebanon, South Lebanon, Mount Lebanon, Beirut and Biqa. Every muhafaza was governed by a muhafez who was the direct representative of the government in the region. The muhafez was appointed and dismissed on the basis of a decree taken by the council of ministers. He was responsible for the execution of all the laws, regulations, instructions and arretes issued by the ministers to the different administrative departments of the region. He controlled the personnel of the ministries in the muharazas and was entrusted in particular with the preservation of public security and order, the safeguarding of individual liberty, the raising of the standard of living among the inhabitants of the rural villages, the spread of education and the maintenance of appropriate healthy conditions and the assistance of the region falling within his jurisdiction in the field of economic development.

Moreover, it was shown that the muhafezin exercised a constant and vigilant surveillance over the municipalities within their jurisdiction with powers even more extensive than those of the French prefect--thus bringing municipal government in accord with a highly centralized system of national government. However, it must be noted that the powers of the muhafezin in this connection were somehow limited because all their decisions and arretes were subject to the approval of the French Counsellor who resided in each muhafaza.

Chapter III

THE STATUS AND ROLE OF THE MUHAFEZ

The territory of the Lebanese Republic is divided into five muhafazas or administrative regions; Beirut, North Lebanon, South Lebanon, Mount Lebanon and Biqa.¹ Each muhafaza has a capital which is the residence place of its governor--the muhafaiz.² The five muhafaza-capitals are respectively Beirut, Tripoli, Sidon, Ba'abda and Zahla.

Each of the five administrative regions is presided by an appointed government official who is the highest and most important official in the muhafaza.³ He is appointed from among people who hold a license degree or its equivalent by a decree taken in the

¹The Official Gazette, No. 29, (June 20, 1959), Legislative decree No. 116 dated June 12, 1959, art. 57, p. 606.

According to legislative decree No. 116, June 12, 1959, the administrative divisions were the following:

The muhafaza of Beirut.

The muhafaza of North Lebanon which included the qadas of Tripoli, Akkar, Zgharta, Bishirri, al-Batroun, and al-Khoura.

The muhafaza of South Lebanon which included the qadas of Sidon, Nabatiya, Tyre, Marjiyoun, Bent Jbail and Hasbayya.

The muhafaza of Mount Lebanon which included the qadas of Ba'abda, al-Matn, Kisirwan, Jbail, Chouf and Aley.

The muhafaza of al-Biqa which included the qadas of Zahla, Ba'albek, Rachaya, Western Biqa and Hermel.

²The Official Gazette, No. 27, (June 16, 1959), legislative decree No. 112 dated June 12, 1959, art. 99, p. 548.

³The Official Gazette, No. 29, (June 20, 1959), legislative decree No. 116 dated June 12, 1959, art. 6, p. 600.

council of ministers. Also, he is transferred in the same way.⁴ These stipulations specified in the 1959 law aimed at raising the standards of the muhafezin by calling for high educational requirements on the university level. However, the most important aspect of the present law is that it increased the powers of the muhafez. Thus, some of the powers that were attributed to the central authorities have been transferred to the muhafez. In addition the legislative decree of 1959 left more room for deconcentration by granting some powers of the muhafez to the qaim maqams. However, before proceeding to study the position of the muhafez in its present aspect, it is necessary to show how the powers of the muhafezin evolved until they reached their present status.

After independence, the administrative regions in Lebanon were controlled by rules and regulations contained in legislative decree No. 18 which was issued on January 12, 1953. Almost 23 months later legislative decree No. 18 was replaced by legislative decree No. 11 dated December 29, 1954. This decree remained in effect for approximately four and a half years when it was abolished and replaced by legislative decree No. 116 which was promulgated on June 12, 1959 under which the muhafazas are still being governed. However, it must be emphasized that the general framework of legislative decree No. 5 dated February 3, 1930, has not changed. Hence, the author will go into elaborate explanations of the specific provisions of the old laws

⁴Ibid., art. 5, p. 600.

and then will proceed to discuss in detail the laws pertaining to the office of the muhafez and which are still in force.

Legislative decree No. 18 dated January 12, 1953, was the first major step in the administrative reorganization of Lebanon after independence. According to the decree, the Lebanese Republic was divided into the five muhafazas of Beirut, North Lebanon, South Lebanon, Mount Lebanon and al-Biqa which in turn formed 22 qadas.⁵

Every muhafaza was administered by a muhafez.⁶ He was responsible for the execution of all national laws and regulations by regional departments in his area.⁹ Correspondence concerning ordinary business, however, was carried on directly between the ministries and their regional departments.¹⁰ Moreover, the muhafez who acted as the intermediary between the central administration and the people of the muhafaza¹¹ was considered the highest civil servant

⁵ According to legislative decree No. 18 dated January 12, 1953 the administrative divisions were the following:

The muhafaza of Beirut which included no qada.

The muhafaza of Southern Lebanon which included the qadas of Sidon, Tyre, Nabatiyya, Marjiyoun, and Jezzine.

The muhafaza of Northern Lebanon which included the qadas of Tripoli, Akkar, Zgharta, Batroun and Koura.

The muhafaza of Mount Lebanon which included the qadas of Ba'abda, Metn, Kesirwan, Jbail, Aley and Chouf.

The muhafaza of al-Biqa which included the qadas of Zahla, Baalbek, Rachaya, Western Biqa and Hermel.

The Official Gazette, No. 18 dated January 12, 1963, annex 1, pp. 104-114.

⁶ On the involuntary absence of the muhafez due to sickness or ordinary leaves, the minister of interior commissioned the head of the diwan in the muhafaza or any qaim maqam to take his place. However, if the absence was more than a month, an agent was appointed by decree. Ibid., art. 8, p. 97.

⁷ Ibid., art. 3, p. 96.

¹⁰ Ibid.

⁸ Ibid., art. 4, p. 96.

¹¹ Ibid.

⁹ Ibid.

in the region.¹²

The functions of the muhafez were many. He conducted all the affairs with which the minister charged him,¹³ and all the matters concerning the administration of his region which did not come within the prerogative of another authority.¹⁴ In particular, he was responsible for preserving order and security, for maintaining personal freedom and the inviolability of homes, for tax collection and for improving the general standard of living in rural areas.¹⁵

It was his duty to aid the judiciary and the courts in the application of laws and their apprehension of criminals.¹⁶ Since administrative departments in the muhafaza were under his direct supervision, he possessed the right to demand reports from them at any time.¹⁷ Moreover, the personnel of these departments were appointed, transferred or dismissed at his suggestion.¹⁸

The muhafez was allowed to demand from the attorney's office in his region information regarding all penal cases.¹⁹ In addition, it was his duty to look after prisons and detention places of his

¹²Ibid., art. 6, p. 97.

¹³Ibid., art. 9, p. 97.

¹⁴Ibid., art. 10, p. 97.

¹⁵Ibid., art. 11, p. 97.

¹⁶Ibid.

¹⁷Ibid., art. 18, p. 98.

¹⁸Ibid.

¹⁹Ibid., art. 21, p. 99.

locality.²⁰ In this respect he was required to tour at least once a month the prisons in the muhafaza in order to examine their physical conditions.²¹ On hearing of the mistreatment of any prisoner or in case of prison disorders, the muhafaiz inspected and reported his findings to the minister of interior.²² In case of mistakes or violations committed by the prison guards, he asked the chief prison-officer to investigate and correct the injustice.²³

Since every man was entitled to the sanctity of homes, the muhafaiz ascertained the preservation of that right by seeing to it that proper warrants were used in case of home entries.²⁴

The law gave the muhafaiz the power to issue licenses for making and selling green cheese and the power to grant permits for the keeping and raising of pigs.²⁵ In addition, he was allowed to give licenses for exploitation of industrial areas, licenses for the use of explosives and building licenses in places having no municipal councils.²⁶ Moreover, he appointed the members of the masha committees, controlled their activities and approved their decisions.²⁷ Furthermore,

²⁰ Ibid., art. 22, p. 99.

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ Ibid., art. 19, p. 99.

²⁵ Ibid., art. 15, p. 98.

²⁶ Ibid., art. 13, p. 98.

²⁷ Ibid., art. 11, p. 97.

he was charged with the function of supervising the natours of his qada and controlling their activities.²⁸

The improvement of education was an important function of the muhafez. Thus, he was entitled to help educational societies and encourage the spread of education in his muhafaza. Moreover, he granted licenses for the establishment of educational clubs, supervised their regulations, controlled their budgets and dissolved them when necessary.²⁹

Every month, the muhafez called a meeting of the various regional offices under his jurisdiction to discuss the general affairs of the muhafaza.³⁰ In particular, he discussed with them how collection of taxes proceeded, the health conditions, the degree of implementation of work in each department and the necessary measures needed for the promotion of public order and security.³¹ The interference of the muhafez in questions relating to activities which required expert knowledge, however, was restricted only to the rendering of his opinion. After the meeting a report was prepared and transmitted to the ministry of interior and other concerned ministers.³²

The muhafez met every three months the qaim maqams of his

²⁸Ibid., art. 14, p. 98.

²⁹Ibid., art. 17, p. 98.

³⁰Ibid., art. 23, p. 99.

³¹Ibid.

³²Ibid.

administrative area to examine the general affairs and needs in the qadas and issued to them all the necessary directions,³³ the proceedings of the meetings and discussions were then recorded in a report, a copy of which was sent to the minister of interior.³⁴ Moreover, he made two inspection tours every year over the administrative and financial activities of the departments in the muhafaza.³⁵ This type of general inspection resulted in the preparation of a report embodying enough information about the political and economic conditions, the collection of taxes and the ability of employees working under his supervision.³⁶ The report which included the suggestions of the muhafaiz was then referred to the minister of interior.³⁷

The law established regional councils in every muhafaza with the exception of Beirut.³⁸ The regional council was composed of six members representing the free trades, the merchants, the industrialists, the land owners, the labor syndicates and one person from each qada who was elected by the municipal and village councils.³⁹ The council was required to make suggestions concerning projects of road building and maintenance and all projects carried out within the muhafaza.⁴⁰ In addition, the council which was headed by the muhafaiz was to be consulted on every concession granted within the muhafaza.⁴¹ The

³³ Ibid., art. 24, p. 100.

³⁴ Ibid.

³⁵ Ibid., art. 25, p. 100.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid., art. 31, p. 101.

³⁹ Ibid.

⁴⁰ Ibid., art. 32, p. 101.

⁴¹ Ibid.

council, moreover, gave its opinion on the establishment of extraordinary expenses and fees, the encouragement of agriculture, health protection, affairs of tourism and estivation and every question the muhafez laid before it.⁴² The council was able, also, to make suggestions in general for improving the economic conditions in the muhafaza.⁴³ It distributed and administered the special budget funds among the villages which had no municipal councils after ratification of the ministry of interior.⁴⁴

Along with the regional council, the 1953 law established in every muhafaza except Beirut a health council presided by the muhafez and composed of the membership of the head of the technical agency of the ministry of health, the head of the department of health supervision, the representative of the ministry of social affairs, the representative of the ministry of health, the muhafaza sanitary engineer and qaim maqam of the concerned district.⁴⁵ It was responsible for the general health affairs of the muhafaza, the administration of health laws and the discussion of health conditions.⁴⁶

⁴²Ibid., art. 33, p. 101.

⁴³Ibid., art. 34, p. 101.

⁴⁴Ibid., art. 35, p. 101.

⁴⁵Ibid., art. 42, p. 102.

⁴⁶Ibid., art. 41, p. 102.

In addition to the councils there was a municipalities and civic organization branch in each of the muhafazas of south Lebanon, north Lebanon, Mount Lebanon and Biqa.⁴⁷ Moreover, a committee was established for the sale of private state property in every muhafaza except Beirut under the chairmanship of the muhafez and the membership of the muhafaza's finance and the secretary of real estate registration.⁴⁸ The committee supervised the sale of private state property in the muhafaza.⁴⁹

Legislative decree No. 11 dated December 29, 1954, provided the last major step in the administrative reorganization of the Lebanese Republic before the enactment of the present law under which the muhafazas are still being administered. According to the decree, the Lebanese territory was divided into the muhafazas of North Lebanon, South Lebanon, Mount Lebanon, Beirut, and Al-Biqa which in turn formed 23 qadas.⁵⁰

⁴⁷ Ibid., art. 45, p. 103.

⁴⁸ Ibid., art. 46, p. 103.

⁴⁹ Ibid.

⁵⁰ According to legislative decree No. 11, dated December 29, 1954, the number of qadas in each muhafaza was as follows: The muhafaza of South Lebanon consisted of the qadas of Sida, Nabatiyya, Marjiyoun, Bent Jbail, Hasbayya and Tyre. The muhafaza of Mount Lebanon consisted of the qadas of Baabda, Matn, Kisirwan, Jbail, Chouf and Aley. The muhafaza of North Lebanon consisted of the qadas of Tripoli, Akkar, Zghorta, Bishirri, al-Batroun, and al-Koura. The muhafaza of Biqa consisted of the qadas of Zahla, Baalbek, Rachaya, Western Biqa and Hermel. The muhafaza of Beirut which included no qada. The Official Gazette No. 1, (January 5, 1955), legislative decree No. 11 dated December 29, 1954, pp. 22-34.

Every muhafaza was governed by a muhafez⁵¹ and every qada was administered by a qaim maqam. The muhafez was the direct representative of the government in the region. He was appointed and dismissed on the basis of a decree taken by the council of ministers.⁵² He was deemed responsible for all rules and regulations that were passed by the central ministries in matters that concern their administrative offices in the muhafaza.⁵³ In addition, he was allowed to exercise in the central district the functions granted to the qaim maqam in the qada.⁵⁴ Moreover, the muhafez who was considered the highest civil servant in the region, presided over the activities of all the departments with the exception of the ministries of justice and national defense.⁵⁵

The muhafez conducted all the affairs with which the minister charged him and all the matters concerning the administration of his region which did not come within the prerogative of another authority after seeking the advice of the head of the concerned technical office.⁵⁶ The muhafez was responsible in particular for the preservation of public security and order, the safeguarding of individual liberty and the inviolability of homes, the collection of taxes and fees, the spreading of education and for health conditions.⁵⁷

⁵¹The muhafez was allowed to delegate some of his functions either to the qaim maqam or head of a muhafaza department. Ibid., art. 29, p. 17.

⁵²Ibid., art. 4, p. 14.

⁵⁵Ibid., art. 7 and 9, p. 14.

⁵³Ibid., art. 9, p. 15.

⁵⁶Ibid., art. 10, p. 15.

⁵⁴Ibid., art. 2, p. 14.

⁵⁷Ibid., art. 12, p. 15.

Since it was the muhafez's duty to maintain peace and order in the muhafazas, the chiefs of the security forces were required to visit the muhafez continuously in order to supply him with all the necessary information about the internal political affairs in the muhafaza.⁵⁸ Moreover, they were called to make any enquiries and investigations asked for by the muhafez.⁵⁹ Furthermore, all nominations and transfers among officers were done on the recommendation of the muhafez. In addition all plans to move the units of gendarmerie or police were equally presented to him before they were finally approved by the qualified authorities.⁶⁰ He was also granted the authority to demand the services of the police force when the public peace in his locality was endangered.⁶¹

It was the duty of the muhafez to aid the judiciary and the courts in their law enforcement. Thus, he was allowed to negotiate with the attorney's office in respect to all matters of importance to the government especially questions relating to public security. On the one hand, it was the duty of the attorney general to submit to the muhafez all the information that the latter asked for in accordance with the provisions mentioned in the penal law. On the other hand it was the right of the muhafez to require the attorney general

⁵⁸ Ibid., art. 13, p. 16.

⁵⁹ Ibid., art. 13, p. 16.

⁶⁰ Ibid., art. 14, p. 16.

⁶¹ Ibid., art. 12, p. 16.

to supply him with all the schedules of cases that the courts had rendered their decisions in.⁶²

The muharez was entitled to visit at least once every month the prisons and places of detention in the region for purposes of inspection.⁶³ Moreover, he participated with the municipal civil reorganization service in the preparation of the budget of the municipal allocation fund.⁶⁴

The muharez was granted important functions in the field of education. Thus, his opinion was to be sought in the authorization and abolishing of governmental schools of all levels in the muhafaza. Furthermore, he assumed the responsibility of helping the ministry of education in the preparation of school buildings as well as the furnishing of the necessary equipment and articles for the educational institutions.⁶⁵

The muharez was responsible for the conditions of public health in the region. Thus, he was entitled to send needy sick people to any governmental hospital within the muhafaza. For this purpose, he issued orders to the directors of hospitals. However, in cases where no governmental hospitals were available in the muhafaza, the muharez suggested to the central authorities the sending of needy patients

⁶²Ibid., art. 15, p. 16.

⁶³Ibid., art. 16, p. 16.

⁶⁴Ibid., art. 17, p. 16.

⁶⁵Ibid., art. 22, p. 17.

either to the nearest government hospital or to any private hospital on the expense of the government.⁶⁶

The muhafez was responsible for the public works in the muhafaza. Thus, he was required to present his proposals about the projects which needed execution in the forthcoming year before the end of May of the previous year. The proposals of the muhafez were then examined by the council of ministers during its study of the draft law of the budget.⁶⁷ Moreover, the muhafez was entrusted with looking at the conduct of work in the muhafaza and to render his remarks in this respect. He was, also, authorized to ask the ministry of public works to give priority in the implementation of certain projects before the others.⁶⁸ Moreover, certain sums of money were placed under the disposal of the muhafez in order to meet the extraordinary expenditures of the technical services in the muhafazas within appropriations allocated for that purpose in the budget.⁶⁹

The muhafez exercised the functions granted to the minister of interior in the law of the moukhtars with the exception of calling the voters for general elections.⁷⁰ In addition, he granted licenses for the exploitation of masha forests and licenses for the exploitation of forests owned by private individuals.⁷¹

⁶⁶ Ibid., art. 23 and 24, p. 17.

⁶⁷ Ibid., art. 18, p. 16.

⁶⁸ Ibid., art. 21, p. 17.

⁶⁹ Ibid., art. 20, p. 16.

⁷⁰ Ibid., art. 26, p. 17.

⁷¹ Ibid.

The muhafez was required to meet every three months the qaim maqams of his administrative area to examine the general affairs and needs of their qadas and issued to them the necessary instructions. He then submitted reports to the ministry of interior about his suggestions and the decisions taken by it.⁷² Moreover, the muhafez held periodic meetings with both the heads and personnel of the ministerial offices in order to provide for coordination of work among them.⁷³ Furthermore, the heads of the offices were required to inform the muhafez once every month about the general affairs of their departments.⁷⁴ In addition, the muhafez submitted every three months reports to the various ministries about the flow of work in their own departments, recommending the effective measures to be taken for the implementation of work.⁷⁵

The law provided for the establishment of regional councils in every muhafaza with the exception of Beirut. The regional council was composed of the muhafez as chairman, and the membership of the head of the muhafaza's finance, the qaim maqams of the muhafaza and of two members for every qada (representing the free trades, the merchants, the industrialists, the labor syndicates and the land

⁷²Ibid., art. 27, p. 17.

⁷³Ibid., art. 9, p. 15.

⁷⁴Ibid., art. 11, p. 15.

⁷⁵Ibid., art. 28, p. 18.

owners who were appointed by decree at the instigation of the muhafez.)⁷⁶ In addition, the various departments were represented by members in the meetings, when the council was discussing any matter that fell within the jurisdiction of these departments.⁷⁷ The council members served for a period of four years and could be discharged before their term of office by a ministerial decree issued by the minister of interior on the recommendation of the muhafez.⁷⁸

The council acted in a dual capacity. First, it offered its advice on any question the muhafez laid before it. Second, it studied all questions relating to the improvement of the conditions of the regions in the field of public health, economics, agriculture, physical development and social welfare.⁷⁹ It also distributed and administered the special budget funds among the villages which did not have municipal councils after the approval of the minister of interior.⁸⁰

A comparison between legislative decree No. 18 dated January 12, 1953 and legislative decree No. 11 dated December 29, 1954 revealed that many functions of the muhafez in both were nearly the same. Moreover, one can easily notice that almost all the changes which were

⁷⁶Ibid., art. 42, p. 19.

⁷⁷Ibid.

⁷⁸Ibid., art. 50, p. 21.

⁷⁹Ibid., art. 43, p. 20.

⁸⁰Ibid., art. 45, p. 20.

introduced in the 1953 law over the 1950 law were abolished again in the 1954 law. Thus, for example, the additional powers granted to the muhafez in the fields of economics, agriculture and public works were taken from him. In addition, the health councils, the municipalities and civic organization branches and the committees for the sale of private state property were abolished. Even the council of the muhafaza which continued to exist in the 1954 law was modified in respect to its functions and composition.

Thus, according to the 1953 law, the council of the muhafaza consisted of six appointed members representing the merchants, industrialists, syndicates, property owners and businessmen. It also embodied persons who were elected by the municipal and moukhtar councils of elders in the region. The functions of the council included the rendering of advice on the setting up of extraordinary expenses and rates as well as the affairs of tourism and estivation. On the other hand, the 1954 law introduced many changes in this respect. First, the head of the finance department in the muhafaza and the qaim maqams became members in the council. Second, it abolished stipulations calling for the election of persons by the municipal and moukhtar councils of elders of the muhafaza. However, instead of appointing six members by a decree on the recommendation of the muhafez from among merchants, industrialists, syndicalists, property owners and businessmen, the 1954 law allowed for appointing two members from each qada. Thus, the muhafaza of Southern Lebanon which consisted of seven qadas retained fourteen members; the muhafaza of Northern

Lebanon and Mount Lebanon which consisted of six qadas each retained twelve members each; and the muhafaza of Al-Biqa which comprised five qadas retained ten appointed members. This change showed the increase in the number of representatives appointed from each qada on the recommendation of the muhafaiz. Third, the 1954 law did not mention anything in relation to the role of the council in the affairs of tourism and estimation or the setting up of extra rates and expenses.

In brief one can observe from this comparison between the 1953 and 1954 laws that most of the additional provisions which were incorporated in the 1953 law over the 1930 law were again abolished. In general, however, one can conclude that the 1954 law added more duties to the muhafaiz in some respects and stripped him off from other duties which were granted instead to the qaim maqam as a measure towards deconcentration.

The Muhafaiz's Position

The muhafaiz's legal position is a result of several factors. In the first place, if we revert for a moment to the judicial concept of the state, it is clear that for practical reasons certain members of the executive must be legally entitled to act in the name of the state. It is also evident that the state has a permanent interest in good government, in the progress of society and in the health and welfare of the people. These paramount interests are liable to injury, and, therefore, some members of the executive have the responsibility and the power to take precautions against dangers, and in emergency to act rapidly to overcome them. In the muhafaza, it is

the muhafez alone who is the permanent representative of the state.⁸¹

In the second place we must consider the position of the muhafez with regard to the exterior services of the ministries. The officials of each service specialise in one branch of work and are responsible only to one minister and to the muhafez. The muhafez is not a technical official for he is the direct subordinate of the minister of interior, and consequently he possesses by law part of the general power of internal government. He, thus, remains, the general administrator of the muhafaza with a general responsibility for government.⁸²

In order that the muhafēz should have sufficient powers to direct, coordinate and control the work of the officials of the technical services, the muhafez is not only the delegate of the minister of interior but the personal representative of every other minister as well and the delegate of the government as a whole.⁸³ The muhafez is appointed and dismissed by decree of the council of ministers, says the law.⁸⁴ He assumes under the authority of the competent ministers, the general direction of all the activities of the state officials in the muhafaza. He alone is the representative and delegate of the

⁸¹ Interview with the Muhafez of Mount Lebanon, Mr. Fawzi Bardawil, July 9, 1963.

⁸² Ibid.

⁸³ The Official Gazette, No. 29, (June 20, 1959), op.cit., art. 4, p. 600.

⁸⁴ Ibid., art. 5, p. 600.

government. Ministers deal with their own officials on technical matters, but with the muhafez on matters of policy, coordination of services and the supervision of work. When ministers delegate powers of decision to lower administrative authorities they are expected to grant them to the muhafez and through him to their own officials. He is responsible, therefore, for the execution of all the laws, regulations, instructions and arretes issued by the ministers to the various administrative services in the muhafaza.⁸⁵ Thus, the muhafez can control and initiate general policy in the muhafaza, and act as leader of its government.

The decree laws decisively confirmed the muhafez's position as general administrator. In addition, the muhafez is the official source of information concerning the muhafaza, and all other officials are required to give him the information and assistance he requires. Decisions even on technical matters are communicated to him: in most cases technical information is sent directly from the technical service to its own ministry with a copy to the muhafez.⁸⁶ A muhafez compiles reports himself when these are needed for preparation of general policy. For instance if the government wishes to analyse the internal economic situation, it is the muhafez who drafts the report, using the information supplied to him by the technical experts.⁸⁷

⁸⁵ Ibid., art. 8, p. 601.

⁸⁶ Interview with the muhafez of Mount Lebanon, Mr. Fawzi Bardawil, July 9, 1963.

⁸⁷ Ibid.

Conditions for Employing the Muhafez

In broad terms any man who is qualified to be a fonctionnaire of any sort can be a muhafez. The elementary qualifications amount to little more than being a Lebanese citizen, in possession of civil and political rights, and free from infectious diseases. Thus, citizenship is a universal pre-requisite. However, Lebanon requires a naturalized citizen to wait ten years before becoming eligible for employment. The candidate, moreover, should have completed twenty years of age and should be free from disease and infirmity that might prevent him from fulfilling the responsibilities of his position. In addition, the candidate must enjoy full civil rights and not have been convicted of any felony or shameful misdemeanor.⁸⁸

The law imposes notable prohibitions on the muhafez. It forbids the muhafez from undertaking any work violating the laws or regulations, from going on strike, from being concerned with any political activities, from affiliating with political parties or professional unions, from undertaking commercial, industrial or any paid transactions, from practising a profession, from being a member on the administrative board of a corporation, from soliciting or accepting directly or indirectly gifts, bonuses or endowments, from soliciting or accepting any recommendation, from involving himself in any work inappropriate to his position and from revealing any informa-

⁸⁸ The Official Gazette, No. 27, (June 16, 1959), Legislative Decree No. 112, dated June 12, 1959, art. 4, pp. 509-510.

tion which involves his position even after leaving it.⁸⁹

The Salary of the Muhafez

Legislative decree No. 41 dated February 23, 1953 was of great importance as it was the first law which established the salary scale of the muhafezin on a sound basis. The decree established nine grades starting with a minimum salary of L.L. 615 and reaching a maximum of L.L. 920. Legislative decree No. 14 dated January 7, 1955 left the salary as in the 1953 law as seen in Table III-1 and Table III-2.

TABLE III-1

THE SALARY SCALE SHEET ACCORDING TO LEGISLATIVE DECREE NO. 41
DATED FEBRUARY 23, 1953^a

<u>Category</u>	<u>Rank</u>	<u>Grade</u>	<u>Monthly salary (in Lebanese pounds)</u>
II	Muhafez	1	920
		2	880
		3	840
		4	800
		5	760
		6	720
		7	685
		8	650
		9	615

^aThe Official Gazette, No. 9, (March 4, 1953), legislative decree No. 41, dated February 23, 1953, annex No. 4, p. 446.

⁸⁹Ibid., art. 15, p. 516.

TABLE III-2

THE SALARY SCALE SHEET ACCORDING TO LEGISLATIVE DECREE NO. 14
DATED JANUARY 7, 1955^a

<u>Category</u>	<u>Rank</u>	<u>Grade</u>	<u>Monthly salary (in Lebanese pounds)</u>
II	Muhafez	1	920
		2	880
		3	840
		4	800
		5	760
		6	720
		7	685
		8	650
		9	615

^aThe Official Gazette No. 2, (January 12, 1955), legislative decree No. 14, dated January 7, 1955, annex No. 4, p. 108.

Legislative decree No. 14 dated January 7, 1955, was replaced by the law of May 7, 1957. Hence, the legislative decree No. 14 as amended by the law of 1957 became the decree which governed the salary of the muhafezin until 1961. The major change that the 1957 salary scale effected over that of 1955 was the reduction in the number of grades to six instead of nine, as seen in Table III-3. The implication was that the increase in salary would take place at a much quicker rate since fewer steps were involved each of which was a larger increase in salary than before.

TABLE III-3

THE SALARY SCALE SHEET ACCORDING TO THE LAW OF MAY 7, 1957^a

<u>Category</u>	<u>Rank</u>	<u>Grade</u>	<u>Monthly salary (in Lebanese pounds)</u>
II	Muhafez	1	1000
		2	930
		3	860
		4	790
		5	720
		6	650

^aThe Official Gazette, No. 21, (May 9, 1957), Law of May 7, 1957, annex No. 4, p. 479.

The legislative decree No. 116 dated June 12, 1959, elevated the position of the muhafez from category II to category I⁹⁰. Correspondingly, decree No. 6167 dated February 21, 1961 which is still in force left the number of grades as they were in the law of 1957 but it raised the salary of each muhafez and effected more increments than before as seen in Table III-4.

⁹⁰The Official Gazette, No. 29 (June 20, 1959), op.cit., art. 5, p. 600.

TABLE III-4

THE SALARY SCALE SHEET ACCORDING TO DECREE NO. 6167 DATED
FEBRUARY 21, 1961^a

Category	Rank	Grade	Monthly salary (in Lebanese pounds)
I	Muhafez	1	1580
		2	1480
		3	1380
		4	1280
		5	1180
		6	1080

^aThe Official Gazette, No. 8, (February 22, 1961), appendix to decree No. 6167 dated February 21, 1961, p. 139.

The Allowances and Fringe Benefits of the Muhafezin

Presently, the muhafezin are among the best paid state officials. Their salaries range from 1080 L.L. to 1580 L.L. However, one can say that the basic salary paid to the muhafezin in Lebanon does not give a true picture of their annual remuneration. In addition to the salary, they are entitled to many types of allowances and fringe benefits which the government is generous in giving.

Every muhafez draws an expense allowance of L.L. 300 per month.⁹¹

⁹¹The Official Gazette, No. 19, (May 4, 1960), decree No. 3950 dated April 27, 1960, art. 32, p. 380.

In addition, each receives a transfer allowance of L.L. 250.⁹² If he is married, he benefits from various children and marriage allowances.⁹³ Moreover, he is provided with a car allowance of LL 200 in order to pay its running costs.⁹⁴

The muharez who may be asked to put in some overtime for the fulfillment of some duties besides his own is given an overtime allowance provided that it does not exceed 50% of the basic salary. The amount to be granted will be given within the allocations specified in the budget of the ministry of interior and by decree issued in accordance with the suggestions made by the minister of interior.⁹⁵

⁹²The Official Gazette, No. 24, (May 31, 1961), decree No. 6725, dated May 16, 1961, art. 1, pp. 478-479.

⁹³Each muharez is entitled according to decree No. 3950 dated April 27, 1960, to a family allowance amounting to L.L. 15 for the wife and each of the dependent children provided that the allowances granted to the children will in no case exceed L.L. 75 per month. Children allowances will be stopped for the male child at the age of eighteen, while the allowance for the daughter continues until she is married. However, the allowance for the male child will continue after the age of eighteen only if he was the victim of a disease or affliction which prevents him from working or in case the male child continues his studies until he reaches the age of twenty-five. The Official Gazette, No. 19, (May 4, 1960), op.cit., art. 3, and 7, pp. 373-374.

⁹⁴Ibid., art. 22, p. 377.

⁹⁵The Official Gazette No. 27, (June 16, 1959), op.cit., art. 23, pp. 520-521.

The residence allowance will be defined by decree in accordance with the suggestions of the Minister of Interior and after getting the approval of the civil service board. However, in no case should the allowance exceed 25% of the basic salary. The amount can also be given on a lump sum basis.⁹⁶

The state bears the cost of treating the muhafez who is the victim of a disease or affliction caused by his work. This must be approved in the council of ministers after taking into consideration the suggestions of the civil service board. However, should the disease not be caused by his work, the muhafez may be given financial assistance specified by the minister of interior according to allocations specified for this purpose by special articles in the budget.⁹⁷

In case the muhafez dies from an accident due to work done while he was on official duty, his family is given financial assistance to the value of his salary for one year provided it does not exceed L.L. 10,000.⁹⁸

However, if the death is not service-connected, the family of the muhafez is given financial assistance to the value of his salary for five months. The amount of help must not be less than L.L. 2000 nor exceed L.L. 4000.⁹⁹

⁹⁶ The Official Gazette, No. 19, (May 4, 1960), op.cit., art. 31, p. 379.

⁹⁷ The Official Gazette, No. 27, (June 16, 1959), op.cit., art. 29, p. 523.

⁹⁸ Ibid., art. 30, p. 523.

⁹⁹ Ibid., art. 30, p. 523.

In both cases this grant will be distributed among the members of the family who are considered as beneficiaries of the muhafez before his death. Furthermore, should one of the muhafez's beneficiaries die, he will be granted financial assistance equal to his monthly salary provided the amount is not less than LL 500 nor exceed L.L. 1000.¹⁰⁰

Fringe benefits include annual leaves and sick leaves. The muhafez who has spent one year in active service or more has the right to annual leaves at full salary for twenty days. According to the law, the leave can be accumulated over a period of three years. Moreover, the ministry of interior decides the time of the leave in such a way as to presume the continuation of work.¹⁰¹

The muhafez with respect to sick leave, can be absent for 30 days on full salary for health reasons provided he notifies his chief immediately through a medical report of the illness submitted by a physician. If the period designated exceeds thirty days, the leave is not granted except at the suggestion of a medical committee which is composed of three physicians for each muhafaza appointed by decree upon the recommendation of the minister of public health.¹⁰²

¹⁰⁰Ibid., art. 30, p. 524.

¹⁰¹Ibid., art. 35, p. 526.

¹⁰²Ibid., art. 39, p. 527.

Any leave whether annual or sick is granted to the muhafez by the director-general of the ministry of interior if the period does not exceed one month. Leaves which exceed one month are granted to the muhafez by the minister of interior upon the recommendation of the director general.¹⁰³

The Duties and Responsibilities of the Muhafez

In this chapter the duties and responsibilities of the muhafez are described with reference to the formal point of view. However, such course of action does not imply that formal rules and regulations are really followed or that they correspond with the informal set-up of the position because the formal and informal aspects may or may not be identical. Thus, because of the importance of the informal relationships between the muhafez and the other units, a section of chapter VI is being devoted to a discussion that may reveal the extent to which the muhafez practices the functions legally entrusted to him by the laws.

In his capacity as the representative of the central authorities, the muhafez is responsible for the direction of all the affairs of his administrative area.¹⁰⁴ The regulations and rules provide that all officials should receive orders from him and that through him the various ministries should contact and supervise their local departments.¹⁰⁵

¹⁰³ Ibid., art. 40, p. 528.

¹⁰⁴ The Official Gazette, No. 29 (June 20, 1959), op.cit., art. 4, p. 600.

¹⁰⁵ Ibid., art. 7, p. 600.

He co-ordinates all the activities of the regional services with the exception of the ministry of defense and ministry of justice.¹⁰⁶ He is also deemed responsible for the execution of all national laws or regulations that are passed by the central government in matters that concern the muhafazas.¹⁰⁷ He must also make public in his muhafaza all these laws and decrees.

The muhafez is responsible for the political and economic conditions of his region. In this connection he presents a monthly report to the minister of interior.¹⁰⁸ He also issues hunting licenses and grants licenses for the establishment of factories and warehouses of fire works in accordance with the provisions of the law of arms.¹⁰⁹ He supervises, controls and organizes the civil defense services in the muhafazas.¹¹⁰ He supervises the agricultural departments in his region and inspects the activities of the syndicates of water societies and the committees entrusted with the administration of public utility projects.¹¹¹ Moreover, he approves their regulations, budgets and the

¹⁰⁶ Ibid., art. 7, p. 600.

¹⁰⁷ Ibid., art. 8, p. 600.

¹⁰⁸ Ibid., art. 9, p. 601.

¹⁰⁹ Ibid., art. 16, p. 601.

¹¹⁰ The Official Gazette, No. 35, (July 4, 1959), legislative decree No. 159 dated June 12, 1959, art. 9, p. 1007.

¹¹¹ The Official Gazette, No. 29, (June 20, 1959), op.cit., art. 20, p. 602.

appointment of their employees and boards.¹¹²

The advice of the muhafez is taken in matters that concern the transfer of the administrative heads of the local services in the region with the exception of the heads of the judiciary branch and the army.¹¹³ To maintain co-ordination among the several departments, the law places them under his authority. He has the right to supervise, inspect and direct their various affairs.¹¹⁴ He has to submit reports every three months to the central ministries about the flow of work in their departments.¹¹⁵ To perform this duty, he calls the heads of the services to periodic meetings to get an idea about the conduct of work in their departments and to recommend the appropriate measures for the improvement of work.¹¹⁶ In addition, separate periodic meetings are held between the muhafez and the personnel of each service for the purpose of acquainting himself about the flow of business.¹¹⁷ Moreover, every department is supposed to send periodic reports on its activities when requested to do so by the muhafez so that he may be constantly informed about the implementation of work.¹¹⁸ This is not

¹¹² Ibid., art. 20, p. 602.

¹¹³ Ibid., art. 12, p. 601.

¹¹⁴ Ibid., art. 8, p. 601.

¹¹⁵ Ibid., art. 24, p. 602.

¹¹⁶ Ibid., art. 8, p. 601.

¹¹⁷ Ibid., art. 8, p. 601.

¹¹⁸ Interview with the Muhafez of Mount Lebanon, Mr. Fawzi Bardawil, July 9, 1963.

all for the law provides additional controls on the regional services by requiring the muhafez to inspect at least once every month the employees subject to his authority and then reports about their ability to the central authorities.¹¹⁹

The muhafez signs the emigration passports for people in his locality.¹²⁰ The procedure followed in this respect is for the gendarmerie or police units to make enquiries about the person concerned and send the results of the investigation to the muhafez together with a photograph and passport pictures.¹²¹ The muhafez, before granting the emigration passport is required to ask the opinion of the judiciary police and the directorate of security forces after which he gives a final decision within fifteen days from the date he received the request.¹²² However, the muhafez has to ensure, during this specified time limit, that the person asking for the emigration passport is not subject to any judicial arrete involving penal punishment and that no judicial warrant is directed against him.¹²³ The law, moreover, permits the muhafez either administratively or in extraordinary cases, to refuse the granting of the emigration passport if the travel

¹¹⁹ The Official Gazette, No. 29, (June 20, 1959), op.cit., art. 8, p. 2.

¹²⁰ Ibid., art. 20, p. 602.

¹²¹ Antoine Baroud, Michael Saleh and Shahin Hatim (eds.), The Modern Collection of Lebanese Laws, (Legislative decree No. 161 dated June 12, 1959, art. 2), II, p. 1.

¹²² Ibid., art. 2, p. 1.

¹²³ Ibid., art. 3, p. 1. However, the muhafezin have not exercised the power of issuing emigration passports because technical difficulties prevented the central government from transferring the judicial record files from Beirut to the regions.

of the person causes any harm to the public security of the country,¹²⁴ otherwise he signs it in the name of the President of the Republic.¹²⁵

The muhafez has the authority to demand the services of the security forces whenever the public peace in his locality is endangered as for example in cases calling for the preservation of order and security, maintenance of personal freedom and the sanctity of private property, in demonstrations threatening peace, riots and unlawful assemblies.¹²⁶

It is his duty to aid the judiciary and the courts in their application of laws for which he is responsible. He has the right, therefore, to negotiate with the attorney's office in all matters of primary importance to the government, particularly questions relating to public safety.¹²⁷

The muhafez, whose primary responsibility is to the minister of interior, is entitled to tell the ministry on the questions that fall within the jurisdiction of all the ministries.¹²⁸ He, moreover, presides over the meetings of the qaim maqams which he arranges for every three months.¹²⁹

The muhafez participates, after hearing the opinion of the

¹²⁴ Ibid., art. 5, p. 1.

¹²⁵ Ibid., art. 7, p. 1.

¹²⁶ The Official Gazette, No. 29, (June 20, 1959), op.cit., art. 10 and 11, p. 601.

¹²⁷ Ibid., art. 13, p. 601.

¹²⁸ Ibid., art. 22, p. 602.

¹²⁹ Ibid., art. 23, p. 602.

council of the muhafaza, in the preparation of the budget for the municipal allocation fund. The draft law for the apportionment of financial assistance is then sent to the ministry of interior together with a written report embodying the muhafez's point of view.¹³⁰

The muhafez is required to take the necessary measures for the application of health rules as well as for the safeguarding of public health.¹³¹ In this connection, he is responsible for sending sick people who are in need, to any governmental hospital in the muhafaza. For this purpose he issues orders to the directors of the hospitals. However, in cases, when no governmental hospital exists in the muhafaza, the muhafez recommends to the central authorities the sending of the poor people either to the nearest hospital to the region or to any other private hospital on the expense of the government.¹³²

The muhafez plays an important role in the field of education. Thus, in matters of establishing and closing governmental schools at all levels his opinion is sought by the government. He assists, also, the minister of education in the preparation of the adequate buildings, supplies and necessary articles needed for the operation of schools.¹³³

¹³⁰Ibid., art. 14, p. 601.

¹³¹Ibid., art. 18, p. 602.

¹³²Ibid., art. 19, p. 602.

¹³³Ibid., art. 17, p. 602.

The muhafez is authorized to grant the employees of the technical services annual and sick leaves.¹³⁴ He gives the employee an annual leave at full salary for twenty days. He decides the time of the leave in such a way as to presume the continuation of work.¹³⁵ He grants sick leaves for a maximum period of one month to employees who submit a medical report of illness signed by a physician.¹³⁶ The muhafez has the right to impose penalties of reprimand and salary deductions for a period not exceeding ten days pursuant to a written request from the direct superior of the employee in the muhafaza.¹³⁷ Other penalties are imposed by the disciplinary council and involve delay of automatic increment for 30 months, suspension from work without pay for a period not exceeding 6 months, demotion, degrading and dismissal from work.¹³⁸

The muhafez selects one member from the council of the muhafaza to serve in the committee which decides on the profits earned by any person subject to the income tax.¹³⁹ Moreover, he chooses one member from either the council of the muhafaza or any municipal council to serve in the committee which discusses the grievances submitted against

¹³⁴Ibid., art. 7, p. 600.

¹³⁵The Official Gazette, No. 27, (June 16, 1959), op.cit., art. 35, p. 526.

¹³⁶Ibid., art. 39, p. 527.

¹³⁷Ibid., art. 56, p. 533, The administrative reorganization law of 1959 has granted this function to the muhafezin for the first time as a measure towards deconcentration.

¹³⁸Ibid., art. 55, p. 533.

¹³⁹The Official Gazette, No. 35, (July 4, 1959), legislative decree No. 144, dated June 12, 1959, art. 25, p. 897.

the decisions of the income tax committee.¹⁴⁰ In addition, a member, who is an owner, is appointed pursuant to the suggestion of the muhafez in the committee which decides the building tax imposed on the buildings.¹⁴¹ Likewise, a member is appointed from a municipal council according to the recommendation of the muhafez in the committee which studies the objections submitted against the building tax committee.¹⁴² A member of a municipal council is appointed, also, pursuant to the suggestion of the muhafez in the committee scrutinising objections against the decisions of the inheritance tax committee.¹⁴³

In his capacity as the qaim maqam of the central qada of his muhafaza,¹⁴⁴ the muhafez exercises several functions. He has the power of granting hunting licenses, licenses for the exploitation of industrial areas, licenses for the use of explosives and building licenses.¹⁴⁵ The muhafez, moreover, specifies, after agreement with the doctor of the central qada, the health program which is to be implemented every month. The doctor of the central qada then submits a report to the muhafez about the health conditions prevalent in the qada.¹⁴⁶ In addition, the muhafez co-ordinates the work of the

¹⁴⁰Ibid., art. 94, p. 919.

¹⁴¹The Official Gazette, No. 35, (July 4, 1959), Legislative decree No. 145 dated June 12, 1959, art. 19, p. 930.

¹⁴²Ibid., art. 39, p. 936.

¹⁴³The Official Gazette, No. 35, (July 4, 1959), Legislative decree No. 146 dated June 12, 1959, art. 39, p. 952.

¹⁴⁴The Official Gazette, No. 21, (June 20, 1959), op.cit., art. 26, p. 603.

¹⁴⁵Ibid., art. 31, 32 and 33, p. 603.

¹⁴⁶Ibid., art. 34, p. 603.

public health departments and the health centres of the municipality of the chief qada.¹⁴⁷ He appoints the guards or natours of private and public property after taking into consideration the suggestions of either the municipal councils or village councils.¹⁴⁸ Moreover, he exercises the authority of appointing the guards of masha land, grants licenses for the exploitation of masha forests and licenses for the exploitation of privately owned forests.¹⁴⁹ In addition, he signs work certificates and orders for sheltering orphans, old people and persons who are in a miserable condition.¹⁵⁰

The Police Powers of the Muhafez

Police powers are dealt with because the maintenance of law and order is the primary responsibility of the state, and, therefore, of the muhafez. The muhafez exercises in the muhafaza the authority to ensure the internal security by guarding against outrages and seditious meetings. He is required to see that all the laws are obeyed and in particular those concerning public order and public security. The police powers of the muhafez thus, give him general reserve warrant, entitling him to act in an emergency without consideration than for the general welfare and safety. This involves

¹⁴⁷ Ibid., art. 37, p. 604.

¹⁴⁸ Ibid., art. 38, p. 604.

¹⁴⁹ Ibid., art. 41, p. 604.

¹⁵⁰ Ibid., art. 42, p. 604.

some powers which are granted to him for the control of forces of men who are responsible for ensuring that no one breaks the law; and the use of legal power by which he is authorized to make decisions designed to limit the chance that there may be a breach of the peace.

The muhafez, through a requisition, is allowed to use the police forces within the muhafaza in any legal action for the purpose of preventing breeches to peace and dangers to public security, helping the central authorities, sending the security forces outside the ordinary regions and demanding the use of armaments whenever there is need for it even in cases not stipulated by the laws in force. The law, further, states that it is the obligation of the security forces to enforce the regulations of the muhafez.¹⁵¹

In ordinary cases, any demand for the use of the security forces cannot be issued or put into effect except within the jurisdiction of the muhafez who issued the formal summons. The requisition would then be directed by the muhafez to the commander of the security forces within the muhafaza.¹⁵² Although the requisition for the armed forces must be accompanied by a written warrant signed by the muhafez, it is possible for the latter in extraordinary cases to require the use of security forces by telegraph or through registered telephone messages on condition that the written summons is immediately issued.¹⁵³

¹⁵¹The Official Gazette, No. 30, (June 22, 1959), legislative decree No. 138 dated June 12, 1959, art. 164, 167, and 169, pp. 679-680.

¹⁵²Ibid., art. 170, p. 680.

¹⁵³Ibid., art. 171, p. 680.

The requisition of the muhafez is required to point out clearly and carefully the results that are to be attained as well as the number of forces to be used and the arrangements that are to be undertaken. However, the enforcement of the order is the responsibility of the chief of the security forces who alone is entitled to establish the methods to be utilized in the accomplishment of the assigned task. The chief of police can, in such circumstances, take into consideration the opinion of the muhafez without being bound to observe it.¹⁵⁴ In case orders are issued by the muhafez to the security forces in order to perform any task falling outside the scope of their authority, the chief of the security forces ought to ask the muhafez to direct the demand to his hierarchic superior. If the latter found anything illegal in the formal summons and the muhafez insisted on implementing it, the matter will be brought before the minister of interior for the purpose of rendering a final decision. However, it is impossible to postpone the implementation of the decision if the muhafez regarded the requisition as requiring speedy action and was ready to undertake such action on his own responsibility.¹⁵⁵ But, if the requisition was illegal or contrary to a judicial arrete, the chief of the security forces is required to inform either by telegraph or through telephone, the chief of the gendarmerie or the director-general of the security forces at Beirut about his refusal to execute

¹⁵⁴ Ibid., art. 172, p. 680.

¹⁵⁵ Ibid., art. 173, pp. 680-681.

the decision of the muhafez.¹⁵⁶ The law imposes a restriction in this respect for it stipulated that the members of the security forces who refuse to implement the formal requisition promulgated by the muhafez are subject to expulsion and judicial action in case their refusal resulted in any harm to public peace. In the same way those who execute illegal requisitions are subject to judicial action.¹⁵⁷

The law states that it is the duty of the muhafez to evade the use of terms which have the form of orders in his correspondence or relations with the chiefs of the public forces. This is because the latter are not under the muhafez's hierarchic control. He, moreover, must not interfere in the details of the service. On the other hand, the members of the security forces ought to show respect towards the muhafez and readiness to effectuate any legal function entrusted to them.¹⁵⁸ However, the muhafezin can call the chiefs of the forces serving in their regions for supplying any kind of information connected with their duties. In extraordinary cases the officers ought to meet the muhafezin without waiting a call.¹⁵⁹ The chief of the security forces ought also to consult the muhafez as well as the commander of the military forces in the region and the attorney general on the measures for transferring units and men from one station to another. If he fears the outbreak of violence in a particular area

¹⁵⁶ Ibid., art. 174, p. 681.

¹⁵⁷ Ibid., art. 175, p. 681.

¹⁵⁸ Ibid., art. 176, pp. 681-682.

¹⁵⁹ Ibid., art. 177 and 178, p. 682.

or if reports revealed any possible outrage or dangerous assemblages, the muhafez is allowed to instruct the police commander to concentrate forces there. If the forces under the authority of the chief of the security forces are not enough, he, in turn, is permitted to ask his superior for sending the necessary armed forces in order to cope with the situation. The muhafez is permitted, however, to require the presentation of a report describing the results of the work without himself having the right to interfere in execution of work.¹⁶⁰

The Accountability of the Muhafez

The muhafez's personal accountability is two-fold. He, more than any other official, is held politically responsible for his acts. The government does not have to find any pretext for removing him from office. In other words, there is no restriction whatever upon the government's right to dismiss, transfer or suspend a muhafez without cause or explanation.¹⁶¹ The protection that other state officials have against unjustified dismissal is not applicable to the muhafezin. Whenever an individual minister delegates powers to a muhafez these powers are exercised under the control of that minister, who can annul the muhafez's decision, alter it, or substitute a new one in its place.¹⁶²

¹⁶⁰ Ibid., art. 179-182, pp. 682-683.

¹⁶¹ The Official Gazette, No. 29, (June 20, 1959), op.cit., art. 5, p. 600.

¹⁶² Interview with Mr. Fawzi Bardawil, the Muhafez of Mount Lebanon, July 9, 1963.

In the second place the muhafez is responsible to the courts. If he commits a civil or criminal offense he will be judged by a civil or criminal court. His official decisions and his refusal to exercise his powers can be challenged before the administrative courts; his decision can be annulled for illegality or damages may be awarded against the plaintiff. Such damages are awarded against the state if the muhafez was acting in his capacity as state official.¹⁶³

In other words, the muhafez is either guilty of faute personnelle or faute de service. The first is a fault committed while the muhafez is off-duty. The faute de service on the other hand, constitutes a fault made by the muhafez while on duty and for which the state assumes responsibility.¹⁶⁴ The state pays damages when the muhafez commits a service-connected fault. However, when the state pays damages, it may sue the muhafez before the council of state, pleading that he pays back the damages that were assessed against the state. In these cases the council may uphold the plea or reject it, or it may regard the fault as partly personal and partly service connected.¹⁶⁵

The Discipline of the Muhafez

The minister has the right to impose penalties, or reprimand and salary deduction for a period not exceeding 15 days on any muhafez

¹⁶³ Interview with Mr. Abdo Awaidat, Counsellor of the Conseil d'Etat, October 17, 1963.

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

pursuant to the suggestions of the director-general of interior or head of the central inspectorate agency.¹⁶⁶ Other penalties are inflicted upon the muhafezin by the disciplinary council. When it is called to try the muhafezin, the court consists of the members of the civil service board, of judges at least from the second category designated by the minister of justice, an employee having the same rank of the muhafez designated by the chairman of the council of ministers and the chief of the central inspection service as representative of the government.¹⁶⁷

As regards the procedure followed in such actions, first, the muhafez has to be referred to the disciplinary council by a decree, by a decision of the council of ministers or by a decision of the central inspection service. Such decree or decision might specify that the muhafez shall be suspended from work until the disciplinary council studies his case or until the council of ministers or central inspection service revises its decision suspending him.¹⁶⁸

The case together with the muhafez's file is first sent to the government delegate in the disciplinary council who will review the case and send it to the chairman of the disciplinary council within one month. The chairman then calls the council for meeting, which will be held in secret, within one week of the date on which he gets the file.¹⁶⁹

¹⁶⁶The Official Gazette, No. 27, (June 16, 1959), op.cit., art. 56, p. 533.

¹⁶⁷Ibid., art. 57, p. 534.

¹⁶⁸Ibid., art. 58, p. 535.

¹⁶⁹Ibid., art. 59, p. 535.

The law has given the muhafez the right to inspect the documents concerning him and to copy out what he deems essential for his defense. He is also permitted to hire a lawyer or call an official of the same rank during his appearance before the council. He must attend the meetings of the disciplinary council and in case of absenteeism he is called again. If he continues to absent himself after the second calling, the council renders its opinion as if the accused was present.¹⁷⁰

The case has to be settled by the council within a period of two months from the date of receipt of the report from the governmental delegate.¹⁷¹ This indicates a lengthy procedure for the entire matter might take a period of not less than three months and a week before a final decision is given.

Decisions of the council are made by a majority vote and its penalties are executed without a decree or decision. Moreover, pardon is not possible on penalties imposed by the council, and the muhafez so discharged from service cannot be re-employed in any governmental or public institution.¹⁷²

The Muhafaza Councils:

In every muhafaza except Beirut there is a regional council composed of the muhafez as chairman, and the membership of the head

¹⁷⁰ Ibid., art. 59, p. 535.

¹⁷¹ Ibid., art. 59, p. 535.

¹⁷² Ibid., art. 59 and 60, p. 535.

of the muhafaza's finance, the qaim maqams of the muhafaza and of two members for every qada (representing the free trades, the merchants, the industrialists, the labor syndicates and the land owners who are appointed by decree at the instigation of the muhafez).¹⁷³ In addition, the various departments in the muhafaza are represented by members in the meetings, when the council is discussing any matter that falls within the jurisdiction of these departments.¹⁷⁴ The council members serve for a term of four years.¹⁷⁵ Nevertheless, they can be discharged before their term of office by a ministerial decree issued on the recommendation of the muhafez by the minister of interior.¹⁷⁶

The council acts in a dual capacity. First, it offers its advice in the presentation of the budget of the municipal allocation fund and every question the muhafez may lay before it.¹⁷⁷ Second, it studies all questions related to the improvement of the conditions of the region in the fields of public health, economics, agriculture, physical development, and social welfare. It also distributes and administers the special budget funds among the villages which have

¹⁷³The Official Gazette, No. 29, (June 20, 1959), op.cit., art. 47, p. 605.

¹⁷⁴Ibid.

¹⁷⁵Ibid.

¹⁷⁶Ibid., art. 55, p. 606.

¹⁷⁷Ibid., art. 48, p. 605.

no municipal councils after the ratification of the minister of interior. Moreover, it supervises the execution of matters relating to the construction of projects as well as the public works provided for each muhafaza in the budget.¹⁷⁸

The council is called to a meeting at least once a month by its chairman, the muhafa'ez.¹⁷⁹ The meetings are not public for they are held in camera.¹⁸⁰ The quorum is more than one-third of the membership and voting is not secret. If the necessary quorum is not secured, the muhafa'ez adjourns the meeting. A second meeting is held on the request of the muhafa'ez on condition that it takes place at least after twenty-four hours from the one that preceded it, and this time it is not necessary to have the required quorum.¹⁸¹ Action is taken by simple majority vote. The muhafa'ez casts the deciding vote in case of a tie.¹⁸²

Although the muhafa'ez is legally bound to put into effect the lawful decisions of the council of the muhafaza, the council serves mainly as an advisory body. However, it is increasingly playing an important role in helping the muhafa'ez in improving his region and supervising the execution of development projects formulated for it.

¹⁷⁸ Ibid., art. 48 and 50, p. 606.

¹⁷⁹ Ibid., art. 51, p. 606.

¹⁸⁰ Ibid.

¹⁸¹ Ibid., art. 52, p. 606.

¹⁸² Ibid., art. 53, p. 606.

Moreover, the government stipulated that every member of the muhafaza council other than civil servants, is entitled to L.L. 25 as remuneration for every session he attends on condition that the compensation paid to every person does in no case exceed L.L. 50.¹⁸³ Such provision, it was hoped, might encourage the council to assume its responsibilities more adequately and effectively.

The Relationships between the Muhafez and Qaim Maqam

The qaim maqam has the duty of administering the various affairs of his district for the muhafez. The qaim-maqam is appointed from among the holders of a license degree in law or its equivalent by means of a decree issued at the suggestion of the minister of interior after the recommendation of the muhafez.¹⁸⁴ All correspondence between the qaim-maqam and his hierarchic superiors is done through the muhafez; and all orders issued to the qaim maqam are issued by or through the muhafez.¹⁸⁵ He is, therefore, responsible to his chief, the muhafez, and thus he must execute the laws and regulations forwarded to him by the muhafez. Since the qaim maqam is under the immediate authority of the muhafez, the latter can always issue binding instructions on his subordinate, even in matters which the law expressly gives to the qaim maqam.¹⁸⁶

¹⁸³The Official Gazette, No. 19, (May 4, 1960), op.cit., art. 77, p. 397.

¹⁸⁴The Official Gazette, No. 29, (June 20, 1959), op.cit., art. 29, p. 603

¹⁸⁵Ibid., art. 30, p. 603.

¹⁸⁶Interview with Mr. Fawzi Bardawil, the Muhafez of Mount Lebanon, July 9, 1963.

The Relationships between the Muhafez and the Chief of the Diwan

The chief of the bureau in the muhafaza who is called head of diwan exercises under the supervision of the muhafez and, in collaboration with the different technical services represented in the region, the functions common to them all and which embrace:¹⁸⁷

1. The execution of that section of the budget which is appropriated to the muhafaza.
2. The management of personnel matters.
3. The control of supplies.
4. The administration of loans.
5. The receiving of grievances and complaints and in general the responsibility for receiving and despatching official correspondence which is passed to the muhafez or transmitted by him to other authorities.

The head of the diwan whose rank is equivalent to chief of section undertakes also the scrutiny of tasks and the control of administrative documents falling within his jurisdiction and which he receives from the heads of the different services and departments represented in the muhafaza.¹⁸⁸ In addition, the head of the diwan exchanges with these departments all the information necessary for the accomplishment of their tasks and duties.¹⁸⁹ Moreover, the head of the

¹⁸⁷ The Official Gazette, No. 68, (December 28, 1959), decree No. 2894 dated December 16, 1959, art. 21, p. 2016.

¹⁸⁸ Ibid.

¹⁸⁹ Ibid., art. 22, p. 2016.

diwan is required to take any necessary measure for coordinating the work of the heads of services and to revise and re-examine any case which falls within the scope of his authority. In this connection, he is entitled to present his suggestions either to the muhafez or to the technical services themselves after informing the muhafez.¹⁹⁰

The part played by the head of the diwan depends on the individual muhafez. He may be treated as a collaborator and personal assistant, or he may be used as a mere secretary and deprived of initiative and responsibility. The latter situation is unusual but it can happen: the muhafez may keep his head of diwan on the fringe of political and social affairs, or he may immerse him in them.¹⁹¹

By virtue of his status as the muhafez's personal assistant, he is entrusted with important and confidential knowledge and must do anything the muhafez requires of him. His office is always adjacent to the muhafez. An important part of his work is the preparation of reports for the muhafez. Sometimes they concern detailed information on a general subject which shows signs of becoming important; sometimes they are preliminary drafts and information for a report which the muhafez is making to a minister.¹⁹²

Thus, the result of bureaucratic documentation imposes upon the muhafez the necessity to rely to a great extent on the chief of

¹⁹⁰Ibid., art. 23, p. 2016.

¹⁹¹Interview with Mr. Antoine Aziz, the head of diwan in the Muhafaza of Mount Lebanon, October 17, 1963.

¹⁹²Ibid.

the diwan in routine matters which he prepares for his consideration. The amount of autonomy given to the head of the diwan in these matters depend upon the muhafez who decides whether to give him little or considerable freedom of action. Normally, he has considerable freedom of action. However, there are some muhafezin who consider themselves primarily administrators and hence interfere a good deal in detail. Others restrict themselves to major questions.¹⁹³

The head of the diwan is often entrusted with the function of conducting the affairs of the muhafaza during the absence of the muhafez.¹⁹⁴ It must be noted here that, in such cases, he is not allowed to exercise the functions which the muhafez is entitled to in the law but merely supervise the implementation of work in the muhafaza.

In sum, a great deal of the work of the head of diwan depends on two unknowns: the skill and the quality of the man, and the attitude and wisdom of the particular muhafez.¹⁹⁵

THE MINISTRY OF INTERIOR

The ministry of interior forms the apex of all services connected with the activities of the muhafazas, qadas, municipalities,

¹⁹³ Ibid.

¹⁹⁴ Al-Hayat (Beirut), September 26, 1963, p. 5.

¹⁹⁵ Interview with Mr. Antoine Aziz, head of diwan in the Muhafaza of Mount Lebanon, October 17, 1963.

villages and associations. It is concerned with the preparation, coordination and execution of affairs relating to Lebanese internal policy. Furthermore, it administers questions of personal status, prisons, Palestinian refugee affairs and undertakes whatever is entrusted to it by the laws and regulations.¹⁹⁶

The present structure of the ministry as seen in Chart 1 Page 117 has been laid down by decree No. 2867 of December 16, 1959 which was put into effect during President Chehab's tenure of office.

The minister of interior himself, is in direct and continual contact with the directorate-general of interior, the directorate-general of domestic relations, the directorate general of Palestinian refugee affairs and the common administrative service.¹⁹⁷ Furthermore, the minister is in direct contact with the central inspection board, the body responsible for the supervision and examination of all the ministries services including those done by local bodies, and with the inspectorate-general of security forces, with the directorate-general of security forces, and with the directorate of public security.¹⁹⁸

= The three directorates-general of interior domestic relations, and Palestinian refugee affairs together with the common administrative

¹⁹⁶ Antoine Baroud, Michael Saleh and Shahin Hatim (ed.), The Modern Collections of Lebanese Laws, (decree No. 2867, dated December 16, 1959, art. 1), III, pp. 1-2.

¹⁹⁷ Ibid., art. 2, p. 2.

¹⁹⁸ Ibid.

service are concerned with current administration. The minister must be approached through these offices which are required to submit to him any information required on any section of the work of the ministry.

The directorate-general of interior is subdivided into the political and administrative affairs service, the department of municipal and rural affairs, the motor vehicle registration service and the secretariat which acts for all the directorate-general.¹⁹⁹

The motor vehicle registration service undertakes the application of rules and regulations pertaining to the registration of motor vehicles and machinery. Moreover, it has three sections in the muhafazas of the South, North and Biqa for accomplishing these tasks at the regional level.²⁰⁰

The two remaining subdivisions of the directorate-general of interior are the political and administrative affairs service and the department of municipal and rural affairs. These two are the most closely connected with regional government and local administration.

The most important duties of the political and administrative affairs service are the collection and coordination of data about the social, economic and political situations in the country; the preparation of information relating to internal policy; preparation of directives and the follow-up of the application of legislative and administrative

¹⁹⁹Ibid., art. 4, p. 2.

²⁰⁰Ibid., art. 8 and 9, p. 3.

provisions relating to the administration, the foreigners and the security of state.²⁰¹ Moreover, it is responsible for the supervision of elections; watches and controls the enactment of provisions, relating to national and foreign associations, clubs, or meetings; and ensures the execution of stipulations enumerated in the firearms and ammunitions law.²⁰²

The department of municipal and rural affairs is entrusted with ensuring the application of laws and regulations relating to local affairs, municipalities and councils of elder. It is particularly responsible for supervising and examining the resolutions taken by the muhafaza councils, municipal councils, mayors and other local bodies which come under the tutorship of the ministry of interior. It is required to participate in raising the standard of living in the villages and to cooperate with the competent authorities responsible for the development of rural areas. Furthermore, it is required to participate in the administration of the municipal equipment fund and general municipal fund. Finally it is responsible for ensuring liaison with the civic organization directorate at the ministry of public works.²⁰³

The directorate-general of domestic relations is responsible for personal status affairs, questions of nationality and any other

²⁰¹Ibid., art. 6, pp. 2-3.

²⁰²Ibid.

²⁰³Ibid., art. 7, p. 3.

business related thereto.²⁰⁴

The directorate-general of the Palestinian refugee affairs as the name infers, is responsible for looking after the affairs of the Palestinian refugees.²⁰⁵ The directorate-general is represented by one person in the muhafazas of Beirut and Mount Lebanon as well as by one representative in each of the muhafazas of the north, south and Biqa.²⁰⁶ The duties of the representative include:²⁰⁷

1. Supervising the activities of camp controllers.
2. Supervising the social and health conditions of the refugees.
3. Watching the political movements of the refugees.
4. Supervising the conditions contravalent to public order.
5. Ensurance of liaison with the administrative authorities of the muhafazas and acquainting them with all matters pertaining to security and order.
6. Supervising the suspected individuals among the refugees.
7. The receiving of correspondence sent from the camps and the deliberation thereon regarding matters which can be solved locally and referring the rest to the central administration.

The common administrative service undertakes all the duties and powers conferred on it by the laws and regulations in relation to all the branches of the ministry with the exception of the internal security forces.

²⁰⁴ Ibid., art. 14, p. 4.

²⁰⁵ Ibid., art. 25, p. 7.

²⁰⁶ Ibid., art. 27, p. 7.

²⁰⁷ Ibid., art. 29, pp. 7-8.

Chapter IV

CENTRAL-FIELD RELATIONSHIPS

To get a clear picture of the muhafez's position, it is necessary to examine the work of the technical services, or what sometimes are called regional offices of the central government. The muhafez works through these offices¹ and the heads of the services are his technical advisors on financial, agricultural, educational, political, economic, labour, health and welfare matters.

The technical side of the work is performed by the offices of the central ministries located in the muhafaza. Table IV-1, below, shows the ministries regional offices in the muhafaza. Thus the various ministries have technical branches in the muhafaza, each with its expert head. However, although the ministry of public health is the proper authority for regulating public health, the ministry of agriculture for regulating the affairs of agriculture, the ministry of labor and social affairs for regulating social welfare, and so on, the general responsibility for public health, agriculture and social welfare within the muhafaza rests with the muhafez. This means that the ministerial officials work under his supervision, and it is the muhafez and not these officials who make the final decisions in these matters.

Since the heavy functions of the muhafez cannot be accomplished by him alone, he is, therefore, assisted by the ministries offices located in the muhafaza. Each office helps the muhafez in the execution

¹For the composition of the offices in the muhafazas see Appendix I.

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TABLE IV-1

THE MINISTRIES REGIONAL OFFICES IN THE MUHAFAZAS

<u>Ministry</u>	<u>Regional Offices</u>
Interior	Gendarmerie Judicial police Judicial record General security Statistics and personal status Technical office for the municipalities ^a
Justice	Court of appeal ^b
Finance	Department of finance Land registry office ^c Survey department ^d
Labor and Social Affairs	The department of labor and social affairs ^e
Public Health	The service of public health ^f
Public Works	Public works directorate ^g Administrative branch Roads and mechanical branch Buildings branch Electricity branch

TABLE IV-1 (Cont'd)

<u>Ministry</u>	<u>Regional Offices</u>
Public Works (Cont'd)	Water branch Civil reorganization branch Transportation branch
Education	Department of education ^h
Post, telegraph and telephone	Department of post, telegraph and telephone ⁱ
Agriculture	The agricultural service ^j The administrative branch The animal resources department Cattle raising branch Animal health control branch The natural resources and forestry department The agricultural resources department Crops protection branch The cereals and fruitful trees' branch The common technical affairs department The guidance branch The statistics branch Co-operatives branch

TABLE IV-1 (Cont'd)

<u>Ministry</u>	<u>Regional Offices</u>
General Planning	Regional activities department ^k
	Regional technical board ^l
	Regional consultative council ^m
	Multi-purpose teams ⁿ
National Economy	The department of economics ^o
	The secretariat
	The commercial branch
	The industrial branch
	The measures and weights branch
	Branch for control of gold jewelry
	Price control branch
	Branch for the prevention of fraud

^aLegislative decree No. 116, June 12, 1959, Annex No. 2.

^bIbid.

^cIbid.

^dDecree No. 2868, December 16, 1959, art. 51.

^eDecree No. 8352, December 30, 1961, art. 25.

^fDecree No. 8377, December 30, 1961, art. 71.

^gDecree No. 2872, December 16, 1959, art. 86.

^hDecree No. 2869, December 16, 1959, art. 39.

ⁱDecree No. 8375, December 30, 1961, art. 70.

^jDecree No. 14148, October 21, 1963, art. 2.

^kDecree No. 12416, April 2, 1963, art. 23.

^lIbid.

^mIbid.

ⁿDecree No. 12492, April 9, 1963, art. 1.

^oAdministrative note No. 17/1, issued by the minister of economics on June 23, 1962.

of his work. Hence a detailed study of the nature of work entrusted to those offices is the preliminary step towards understanding the position of the muhafwz.

(a) Statistical and Personal Status Office:

On behalf of the ministry of interior, the statistics and personal status offices coordinates the work of the census branches distributed over the qadas, renders suggestions in matters presented to its consideration by the census service at Beirut and submits all the requests which fall within the jurisdiction of the directorate-general of personal status. Moreover, these offices grant identity cards, keep files and documents, arrange the monthly schedules of the newly born and deceased persons and prepare the yearly list embodying the names of the Lebanese citizens who are eligible for elections as an initial measure to register their names in the electoral list.²

(b) Regional Finance Offices:

The muhafaza's department of finance undertakes the financial affairs of its region. It supervises the financial transactions of the muhafaza, arranges and controls the accounts of the qadas, collects governmental taxes and fees, and pays the vouchers, bills and other transactions.³

²Antoine Baroud, Michael Saleh and Shahin Hatim (ed), The Modern Collections of Lebanese Laws (Decree No. 2867, dated December 16, 1959, art. 21 and 22), III, pp. 5-6.

³Ibid., (Decree No. 2868 dated December 16, 1959, art. 32), V, p. 17.

The survey department, on the other hand, determines the properties, lands, and other estates; prepare the provisional plans and reports, statistics and registers; records all facts and objections, enacts all amendments which the land registry officer deems necessary in respect of the temporary boundaries and performs the technical measurements required for the execution of survey and final plans. In addition, the department prepares bills of quantities and other survey accounts, undertakes preliminary design of survey maps, presents weekly reports, property information and investigation reports, and execute the formalities for the registration of properties upon the request of the land registry department.⁴

(c) The Muhafaza Department of Education:

The muhafaza department of education administers the educational affairs. It is responsible for the representation of the different directorates in the ministry of education and the supervision of the governmental and private schools in the muhafaza. Its inspectors make tours over the elementary and primary schools in the qadas. On these occasions they give recommendations, advice and instructions to the teachers and directors of schools. In addition, the department serves as a liaison between the specialized central divisions of the ministry of education and those responsible for running the schools. Moreover, it is responsible for seeing that school buildings are in a

⁴Ibid., art. 51.

good condition and have all the necessary equipment and supplies. It, further, studies the educational needs in the towns and villages and gather information for the ministry concerning the various schools. The statistical information is collected in cooperation with the statistics division in the ministry. Finally, it makes sure that during the exams enough inspectors are present. In connection with this function it implements the instructions submitted by the directorate of exams. On the whole, the department examines anything entrusted to it by the government in accordance with the regulations in force.⁵

(d) The Muhafaza Directorate of Public Works:

The muhafaza's directorate of public works is presided by an engineer who is elevated to the position of head of service.⁶ It is divided into several branches which include the administrative branch, the roads and mechanical branch, the buildings branch, the electricity branch, the water branch, the civil reorganization branch and the transportation branch.⁷

Through the medium of these branches the directorate undertakes a lot of work. It is responsible for building and maintaining roads and for building and maintaining public buildings. It under-

⁵ Ibid., (Decree No. 2869 dated December 16, 1959, art. 39 and 40), II, p. 20.

⁶ Ibid., (Decree No. 2872 dated December 16, 1959, art. 88), I, p. 27.

⁷ Ibid., art. 87, p. 27.

takes the safeguarding of traffic signs, security of the highways, the handling of driving licenses, inspection over the implementation of public works, development of the plans and technical studies necessary for road construction and any other thing connected with the questions of roads and which comes within the scope of its jurisdiction.⁸

The department studies the requests for building licenses and after agreeing to grant it finds out whether any infractions are committed and thus tries to restore matters to their proper place. It studies the municipal arretes from the technical points of view and prepares tenders files. It also undertakes the responsibility for maintenance of municipal roads and guides the villagers in rural areas, where no municipalities exist, about the best means for the construction of houses. It grants licenses for this purpose after ascertaining that the work will proceed in accordance with the health regulations and beautifying scheme and that houses meet the technical stipulations required. Moreover, it is responsible for preparing models of residence houses in the villages.⁹

The department is in charge of the exploitation of water resources, the building of hydraulic works and the administration of public property, as well as of matters concerning the production and distribution of electric power. It shows enough concern for fluvial

⁸ Ibid., art. 90, p. 28.

⁹ Ibid., art. 90, p. 28.

and marine public property. It compiles the necessary information and sends periodic reports about waterfall in the region. It carries out studies on geology and on the use of water springs. Moreover, it makes the needed contracts with the autonomous water and electric services in order to supply it with technical assistance. It manages all affairs relating to production and distribution of electric power. It studies the power resources and needs of the muhafaza, studies and maintains projects for power production and distribution, and studies municipal village lighting projects.¹⁰

Finally, the regional directorate of public works undertakes all the activities that might be entrusted to it by the directorate-general of the ministry. It is required to submit to the ministry all the recommendations for improving the execution of work in the muhafaza, and after the comprehensive list of projects is compiled, it arranges the proposed projects in order of priority based upon criteria of need.¹¹ Since the list of proposed public improvements will contain more many projects than can be undertaken, the evaluation of projects for the purpose of determining priorities becomes most important.

(e) The Department of Labour and Social Affairs:

The social affairs of the muhafaza are undertaken by the department of labour and social affairs. It is responsible for many

¹⁰ Ibid., art. 90, p. 29.

¹¹ Ibid.

matters connected with social welfare. It has to ensure the proper observance of the law in all questions pertaining to labour. It collects and compiles information and statistical figures in relation to social and labour activities of the different municipalities and establishments. It tries to improve the relations between employers and employees by strengthening the co-operation between the syndicates which represent the employers and the syndicates which represent the employees and controls their actions.¹² Moreover, the department grants licenses for the use of machines in the establishments and factories of the muhafaza. It also represents the ministry in the health council of the muhafaza. It ensures the proper observance of laws and regulations pertaining to the work conditions and safety of labourers by conducting periodic tours over the factories and establishments. It presents warnings and inflicts penalties for the violation of laws. It takes the appropriate measures for the safety and protection of employees during working hours by means of all the available devices under its disposal.

The department undertakes many other activities in relation to labour. It considers disputes arising between employers and employees and tries to settle the disputes peacefully and by agreement. It supervises the employment offices in the muhafaza and examines cases passed by the arbitration council of labour. Moreover, it receives applications for employment and makes the necessary contacts

¹² Ibid., (Decree No. 8352 dated December 30, 1961, art. 26), III, p. 8/2.

for finding working jobs. It registers the names of the employees working in establishments and supplies the Lebanese workers with employment registers. In addition, it studies the requests for work certificates and grants them. It prepares statistics on employment and unemployment and grants labor permits to aliens and generally controls alien labor. Furthermore, it supervises all the centres of vocational training in the muhafaza and spreads social guidance through all the means of publication and advertisement. In addition, it studies the social conditions of prisoners and sends reports to the ministry suggesting means for the improvement of their lot.¹³ Finally, the department inspects the athletic, social and scouting activities of societies, establishments and corporations to ensure that they are bound by their goals.¹⁴

(f) The Department of Post, Telegraph and Telephone:

The department of post, telegraph and telephone is responsible for telegraphic and telephone lines of communication within and from the muhafazas. The inspectors see to it that the post and telegraph offices scattered all over in every muhafaza are carrying their functions properly.¹⁵

¹³ Ibid., art. 26, pp. 8/2-8/3.

¹⁴ Ibid.

¹⁵ Ibid., (Decree No. 8375 dated December 30, 1961, art. 70-72), I, p. 101.

(g) The Health Service:

The health service is presided by a doctor who is elevated to the rank of head of service. The head of service is considered the direct superior of all the officials of public health including employees working in governmental hospitals and clinics. He is assisted by a health engineer and pharmacist inspector. The service directs all the inhabitants of the muhafaza in all matters relating to health and sanitation. Moreover, the service supervises the activities of each government hospital which is found in every muhafaza capital. Each regional service has a mobile clinic and a regional medical unit controlling health problems in general. In addition, it is entrusted with the execution of work programs and the implementation of health laws designed to raise health standards in the muhafazas.¹⁶

(h) The Agricultural Service:

Each of the muhafazas has an agricultural service headed by an agricultural engineer or veterinary doctor of category II who is responsible for the personnel representing the ministry and its activities in the muhafazas.¹⁷ The heads of the regional services receive direct instructions from the heads of the central services in technical questions only.¹⁸

¹⁶ Ibid., (Decree, No. 8377 dated December 30, 1961, art. 70-77), III, pp. 27-28.

¹⁷ The Official Gazette, No. 87, (October 31, 1963), Decree No. 14148 dated October 21, 1963, art. 2, p. 4899.

¹⁸ Ibid.

Moreover, the head of the regional service is authorized to require any department or branch, when necessary to help any other department or branch in the performance of duties incumbent on them. However, in case, the regional service lacks the sufficient facilities, it is allowed to call for assistance from the central administration.¹⁹

The regional service is responsible generally for undertaking the functions and responsibilities enumerated in articles 42-45 of regulatory decree No. 9571 dated December 30, 1961.²⁰ The stipulations state that the regional service studies all agricultural projects, supervises the work of the employees of the ministry of agriculture, inspects the implementation of already decided projects and prepares in agreement with the specialized central service, the program for agricultural work in the muhafaza.²¹ Moreover, it supervises the activities of agricultural centres set up for the purpose of studying agricultural guidance and the rendering of advice to the farmers on the possible solution of the difficulties they encounter.²² Also, the service is supposed to make constant contacts with the muhafez in order to receive his instructions on the agricultural projects of the muhafaza.²³ In addition, it supplies the central administration

¹⁹Ibid., art. 4.

²⁰Ibid., art. 6.

²¹Baroud, Saleh and Shahin, op.cit., (Decree No. 8371 dated December 30, 1961, art. 42 and 43), III, pp. 17-18.

²²Ibid., art. 44, p. 18.

²³The Official Gazette, No. 87, (October 31, 1963), op.cit., art. 6, p. 4899.

with any needed statistical information and submits periodic reports on the activities of regional departments and branches.²⁴ Furthermore, it is responsible for inspecting the implementation of agricultural laws and regulations as well as for making enquiries.²⁵

Each of the agricultural services of the muhafazas is composed of the administrative branch and the following departments: The animal resources department, the natural resources and forestry department, the agricultural resources department and the common technical affairs department.²⁶

The administrative branch manages clerical, personnel and accounting affairs and studies grievances and complaints.²⁷

The animal resources department is composed of two branches namely the cattle raising branch and the animal health control branch. The cattle raising branch takes measures for the improved breeding of animals and domestic fowls and the promotion of the animal wealth of the country, organizes and supervises animal and animal products, propagates technical methods among societies concerned with the raising and breeding of cattle and renders assistance to them. It takes the measures for organizing exports and imports and for the improvement

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid., art. 3.

²⁷ Ibid., art. 7, pp. 4899-4901.

of animal products.²⁸

The animal health control branch, on the other hand, controls and inspects slaughter houses, inspects animal food products and controls their consumption. In conjunction with the ministry of health it avoids the spread of diseases common to both animals and human beings. It undertakes correspondence with the administrative local authorities in order to take the essential measures against violations committed in slaughter houses and shops for the sale of animal food products. It prevents the assemblage of contagious diseased animals and refuses their exportation. It moreover, takes the necessary precautions on the frontiers to prevent the entry of animals containing contagious diseases from the neighbouring countries. It grants health and veterinary certificates and controls the activities of private veterinary surgeons and farriers, of places for animal treatment and sale of meat.²⁹

The natural resources and forestry department presumes the functions enumerated in decree No. 6349 dated March 16, 1961 as well as the powers mentioned in decree No. 8371 of December 30, 1961 and decree No. 13435 dated July 25, 1963.³⁰ In brief, the department encourages afforestation, suggests the organization of afforestation plans, takes precautions for soil conservation against inundations,

²⁸Ibid.

²⁹Ibid.

³⁰Ibid.

organizes pastures, controls hunting and the use of public, masha and private forests. It, moreover, protects games, river and sea fisheries and inspects the forests and natural wealth of the country. In addition, it supervises the execution of afforestation plans and pasturage development.³¹

The head of the department suggests the projects of afforestation, conservation of soil, pastures promotion and any plans related to hunting and fisheries. The suggestions are offered under the guidance of the head of the regional service pursuant to the approval of the muhafez. He, also supervises the execution of projects. Furthermore, he administers the affairs of the technical group responsible for the inspection of forest, games and fisheries and divides work among its members. He, in addition, is entitled to send the employees of the department from one centre to another for 15 days pursuant to the approval of the muhafez. However, the 15-day period is renewable subject to the confirmation of the head of the muhafaza agricultural service.³²

The agricultural resources department is composed of the crops protection branch and the cereals and fruitful trees' branch.

³¹The Official Gazette, No. 12 (March 22, 1961), decree No. 6349 dated March 16, 1961, art. 4, pp. 205-206. Also: The Official Gazette, No. 56 (December 30, 1961), decree No. 8371 dated December 30, 1961, art. 17, 18 and 19, p. 1803.

³²The Official Gazette, No. 61 (August 1, 1963) decree No. 13435 dated July 25, 1963, art. 1, p. 3347.

The former protects plants by combatting plant diseases and parasites and by giving instructions on methods of destroying such parasites. It conducts plant diseases combatting operations in the regions and controls private and public nurseries in matters concerning plant diseases. It grants health certificates in the field of agriculture. It, also, inspects veterinary medicines used in combatting diseases and administers agricultural quarantining questions. Finally, it renders technical guidance to the farmers through the media of the guidance branch.³³

On the other hand, the cereals and fruitful trees branch ensures technical agricultural guidance, takes whatever is related to the plantation of trees, guides the peasants towards the use of the best saplings adaptable to various climates, inspects public orchards, roadside trees, vegetable products and the putting into practice of importation instructions. Moreover, it supervises the growth of trees and inspects the choice of the right cereals for growing in the regions in accordance with the country plans for exports and imports.³⁴

The common technical affairs department is composed of the guidance branch, the co-operatives branch and the statistics branch. The guidance branch works in conjunction with the different technical branches in the region towards preparing, co-ordinating and implementing of the guidance programs after receiving the approval of the

³³ The Official Gazette, No. 87, (October 31, 1963), op.cit., art. 7, pp. 4898-4901.

³⁴ Ibid.

agricultural guidance department in the ministry of agriculture. It also co-operates with the governmental agricultural and veterinary schools in the implementation of programs, the following up of modern educational devices and the guidance of trainers. Thus, it is responsible for training teachers and inspecting the work of vocational trainers.³⁵

The co-operatives branch on the other hand, encourages the establishment of agricultural co-operatives and offices, trains members of co-operatives and guides and controls their activities.³⁶

Finally, the statistics branch prepares inventories of the country's agricultural production which is carried out by the central administration. However, all agricultural training institutes in the muhafazas are subject to the direct control of the agricultural services.³⁷

(i) The Regional Department of Economics:

The functions of the regional offices in the muhafazas were exercised, prior to 1959, under the supervision of the muhafez. However, the regulatory decrees which were issued after 1959 increased their powers extensively and put them under the direct control of the muhafez as a measure towards more deconcentration on the regional level. Moreover, it was found that deconcentration must be pushed

³⁵Ibid.

³⁶Ibid.

³⁷Ibid.

a step further and as a result decree No. 2896 promulgated on December 16, 1959, created for the first time a department of economics in each of the muhafazas of North Lebanon, South Lebanon and the Biqa.³⁸ The law provided that every department is required to undertake under the supervision of the muhafa'ez all the executive functions and duties carried out by the ministry of national economy. A later decree fixed, in detail, the duties of the regional economic departments, their powers, the conditions of work therein and the manner of distributing activities between them and the central administration.

Thus, the regional department of economics in the muhafaza represents all the sections of the central administration which are attached to the directorate-general of national economy.³⁹ The head of the department is entitled to perform under the supervision of the muhafa'ez the functions which come within the scope of his authority.⁴⁰ Although the heads of the economic departments receive instructions from the heads of the central services in technical questions, yet they are responsible before the muhafa'ez for the personnel representing the ministry and its activities in the muhafazas.⁴¹ However, the head of each department is allowed to entrust to any branch, when necessary, the help of other branches in the performance of duties

³⁸Baroud, Saleh and Shahin, op.cit., (Decree No. 8371 dated December 16, 1959, art. 22), I, p. 7.

³⁹The Official Gazette, No. 56, (December 30, 1961), Decree No. 8315 dated December 29, 1961, art. 2, p. 2008.

⁴⁰Ibid., art. 3.

⁴¹Ibid., art. 3 and 4.

incumbent on them.⁴² Moreover, the department deals, within its competence, with whatever transactions submitted to it and refers the remainder to the central authorities which are allowed to demand from it the carrying out of any activity.⁴³

Each department of economics in the muhaifazas is composed of the secretariat, the commercial branch, the industrial branch, the measures and weights branch, branch for control of gold and jewelry, price control branch and the fraud prevention branch.⁴⁴

The secretariat registers and distributes the mail, handles correspondence, organizes files and conducts formalities relating to the protection of property.⁴⁵ In case of the latter function, it receives applications related to transactions of protection of property and the liquidation of its dues, as well as the delivery of certificates, orders and bravets (baraat) related thereto upon their issue by the responsible authorities in the ministry of economy.⁴⁶ Moreover, it prepares the statements and minutes related to the protection of property and inspects all documents presented to it by the concerned persons.⁴⁷ The law, furthermore, stipulates that the

⁴²Ibid., art. 5.

⁴³Ibid., art. 6 and 7.

⁴⁴Administrative Note No. 17/1 issued by the Minister of Economics on June 23, 1962.

⁴⁵Ibid.

⁴⁶The Official Gazette, No. 56, (December 30, 1961), op.cit., art. 8, pp. 2009-2013.

⁴⁷Ibid.

secretariat handles all the formalities of property protection whether it be commercial, industrial, artistical, musical or technical and liquidates the fees implied thereon.⁴⁸ Legally prepared applications and enclosures are deposited and filed, together with the treasury receipt vouchers, at the property office in the ministry. The property office effects the registration formalities and returns the applications back to the secretariat which in turn delivers them to the respective applicants after affixing legal stamp on them.⁴⁹

The commercial branch is responsible for managing affairs connected with imports and exports, licenses, companies, trading firms and rations distribution.⁵⁰ It, thus, approves the export and import of articles subject to license regulations within the limits of powers conferred upon the heads of the central services, signs statements of postal parcels and customs liquidations, signs customs declarations relating to the export of goods destined to private use, participates in the study of export and import items subject to prior permit and liquidates the fees of sugar items.⁵¹

Moreover, in its capacity as enforcer of license regulations, it grants export and import licenses, liquidates their fees, signs rations distribution licenses and the licenses based on prior approvals from the minister or director-general or heads of central

⁴⁸Ibid., art. 9, pp. 2014-2016.

⁴⁹Ibid.

⁵⁰Ibid., art. 8, pp. 2009-2013.

⁵¹Ibid.

services in conformity with the competence of each one, renews and extends import licenses within the terms laid down, changes the origin of goods on the export and import licenses when demanded, replaces the stations of entry or exit of goods within the Lebanese territory on the licenses and amends or corrects the number of the tariff on the license.⁵²

In addition, the commercial branch studies the statutes of companies or insurance firms which are constituted in the muhafaza to find out whether they violate the regulations or not and enquires from the offices concerned through the muhafez about the conditions of the applicants. It, also, examines amendments incidental to the statutes of companies and insurance firms whose main office lies within the muhafaza as well as the amendments incidental to the administrative organization of the subsidiary branches of companies or insurance bodies operating in the muhafaza and whose main offices lies outside, controls their business and supervises their accounts. Moreover, it liquidates the inspection fees imposed on companies and insurance firms whose main office is in the muhafaza.⁵³

Furthermore, the commercial branch supervises the affairs of the chambers of commerce and merchant associations, watches the implementation of regulations relating thereto, facilitates their work

⁵²Ibid.

⁵³Ibid.

and promotes their activities.⁵⁴ Finally, it allocates quotas to importers in accordance with the instructions set for this purpose and returns the guarantees to the respective owners upon the fulfillment of the conditions of remittance.⁵⁵ When distributing the quotas of the year, the commercial central service notifies the regional department of economics about the list of merchants entitled to each type of commodities subject to the rations regulations. The regional department is then required to include in the annual report submitted to the ministry, a statement of the distributions made during the year together with the names, the amount of the quota and the number and date of the license of each individual.⁵⁶ However, in case no specific way of distribution is followed by the ministry, the muhafez concerned and the head of the regional department of economics are notified about the total quota fixed for the muhafaza.⁵⁷ Then a committee formed under the chairmanship of the muhafez (and the membership of the head of the regional department of economics, the head of the regional department of finance, a representative of the chamber of commerce and industry and a representative of the merchants' association) fixes the share of every merchant out of the quota in accordance with the directions of the ministry of national

⁵⁴Ibid.

⁵⁵Ibid.

⁵⁶Administrative Note No. 17/1 issued by the Minister of Economics on June 23, 1962.

⁵⁷The Official Gazette, No. 56, (December 30, 1961), op.cit., art. 9, pp. 2014-2016.

economy.⁵⁸ On the basis of the individual distribution list, the muhafaza economics' department implements the decision.⁵⁹

The industrial branch controls industrial firms, conducts preliminary registration of industrial firms, receives and shares in the preparation of production industrial statistics, studies the applications for establishment of factories, checks investment licenses, issues industrial certificates, examines exploitation licenses and inspects the industrial firms.⁶⁰ In addition, it controls the quality of industrial products in accordance with the governments standards and specifications, studies production costs and selling prices, studies the applications calling for customs protection and sends the result of the studies to the competent central authorities, examines applications for the export and import of industrial plants and machineries, decides in the applications for permits relating to the purchase or import of vinegar essence destined for industry and grants certificates regarding the estimation of the needs of factories in relation to articles exempted from the customs duty.⁶¹ Finally, it supervises and encourages chambers of industry and industrial societies, participates in the promotion of fairs and markets held in the muhafaza,⁶²

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid., art. 8 and 9.

⁶¹ Ibid., art. 8.

⁶² Ibid.

controls the accounts of refineries situated in the region as to the receipt of Lebanon's share from its fuel products, prepares sales statistics, examines statements of production and distribution, conducts formalities connected with the reimbursement of differences in the price of gasoline and refunds it to entitled consumers after the central authorities liquidate whatever is due in accordance with the laws.⁶³

The weights and measures branch controls weights and measures standards; examines and annotates the devices of weights and measures whether locally made or imported; ensures periodic rotation check; contacts the attorney's office for all the contraventions of the laws, rules and regulations of weights and measures; issues certificates testifying the measurement of reservoirs and tanks; examines weights and measures devices pertaining to the army, official institutions or public interest; examines and rechecks formalities relating to repair of weights, measures and fluid inflammable pumps and issues permits for the entry of tools, equipment and devices not complying with the metric system provided that they are not placed for commercial use and are imported for the purpose of facilitating scholastic, medical or engineering business.⁶⁴

The price control branch enacts laws and regulations relating to prices, signs customs manifests relating to foodstuffs and alcoholic

⁶³Ibid.

⁶⁴Ibid.

drinks as to its compliance with price regulations and contacts the attorney's office regarding transactions related to contravention of prices.⁶⁵

The fraud prevention branch enacts laws and regulations relating to combatment of fraud, annotates customs manifests relating to foodstuffs and alcoholic drinks as to quantities and compliance with the laws of fraud prevention, signs the customs declarations relating to labels and packing tools, and organizes draft resolutions relating to contravention of fraud prevention.⁶⁶ Moreover, it analyses samples through direct contact with reliable laboratories, issues notices about the non-existence of fraud and returns safe good samples to the owners or distributes them among local charitable societies once every six months in accordance with the procedures laid down by the central administration pursuant to the approval and supervision of the muhafez; destroys adulterated samples or specimen once every year under the supervision of a committee constituted from the head of the economic department, a delegate representing the muhafez and one controller of fraud prevention; estimates the necessity for the analysis of alcoholic drinks or their exemption from examination in case it is ascertained that they are not destined for commercial purposes, accepts or rejects the results of sample analysis undertaken by the controllers in the light of remarks made by the reliable laboratories and the provisions

⁶⁵Ibid.

⁶⁶Ibid.

of the laws in force.⁶⁷ Finally, it contacts the attorney's office regarding transactions relating to abatement of fraud prevention.⁶⁸

The jewelry branch which is found only in the muhafaza economic department of North Lebanon is empowered to control transactions relating to jewelries' trade, annotation of their customs declarations and liquidation of their duties.⁶⁹

Here, it must be noted that the activities of the branches relating to the protection of consumers affairs and which include the weights and measures branch, the price control branch, the fraud prevention branch and the jewelry branch are responsible for their activities directly before the head of the economic department who is required to submit to the central consumer's protection service a monthly report of the results of their duties.⁷⁰ Moreover, the head of the regional department is authorized to confirm the schedules of the monthly programmes which are prepared by the controllers in the light of the observations made by the competent departments in the central administration.⁷¹ After the programs are approved, by the head of the department, he sends immediately copies of the decision to the competent authorities in the ministry of national economy.⁷²

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Administrative Note No. 17/1 issued by the Minister of Economics on June 23, 1962.

⁷¹ Ibid.

⁷² Ibid.

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⁶⁷Ibid.

⁶⁸Ibid.

⁶⁹Ibid.

⁷⁰Administrative Note No. 17/1 issued by the Minister of Economics on June 23, 1962.

⁷¹Ibid.

⁷²Ibid.

Moreover, as a provisional measure and until the recruitment of regional controllers, the law entrusted to the technical controllers in the central consumer's service the function of measuring stable and movable reservoirs, the inspection of compto-meters of all kinds, the primary examination of the new specimens of the weights or measurement devices whether locally made or imported and differ from devices in popular use, the initial examination of bridge scales and the checking of technical articles used in the regional departments.⁷³

(j) Regional Planning Departments, Technical Boards, Consultative Councils and Multi-purpose Teams:

The ministry of general planning had issued several laws pertaining to the organization of the development programs in the regions in a way to assure the contribution, on the muhafaza level, of the muhafez and representatives of the technical services, and on the city level, the contribution of the multi-purpose teams which operate under the joint supervision of the regional technical boards and regional consultative councils respectively.

(i) Regional Activities Departments:

These offices working in the muhafazas are branches of the regional activities bureau at the ministry of general planning which is responsible for studying the social situations in the muhafaza through multi-purpose teams, the assistance of the muhafezin in laying

⁷³Ibid.

development projects and participation in the preparation as well as the execution of subsidiary plans in the various regions.⁷⁴ The bureau includes five departments each working in one of the muhafazas; and headed by a graduate of the institute for development training. Each regional activities department assists the muhafez in studying the situation of the region in all what is connected with development, secures liaison between the muhafaza and the central bureau on the one hand and the muhafaza and the "equipe polyvalentes" operating in the districts on the other hand. Finally it participates in and follows up the execution of plans related to the muhafaza.⁷⁵

(ii) Regional Technical Boards:

This board established by paragraph one of article 12 of the law of June 12, 1962, is composed of representatives from the ministries of general planning, public works, education, public health, agriculture and the social welfare service.⁷⁶ Decree No. 12417 dated April 2, 1963 defined the relations of the board with the muhafez and the ministry of general planning. It stated that the board directs development in the region and in particular gives its opinion concerning the general development plan of the muhafaza, submits proposals for

⁷⁴The Official Gazette, No. 29, (April 11, 1963), Decree No. 12416 dated April 2, 1963, art. 22, p. 1251.

⁷⁵Ibid., art. 23 and 24.

⁷⁶The Law of June 12, 1963, art. 12.

adopting a development program, makes general directives concerning the duties of the "equipe polyvalentes" and the social workers of the social welfare service, studies the long-run development programs with a view to preparing the subsidiary plans for the region, and determines priorities in the implementation of development programs in accordance with proper regional needs for local development and in the light of the work of social workers and multi-purpose teams.⁷⁷

Moreover, it searches for the means leading to the achievement of subsidiary programs, outlines a plan for the organization of work among the various departments in the muhafaza, compares between the work programs of the different offices, ensures co-ordination during program execution and finally peruses and renders its opinion in the resolutions adopted by the regional consultative council.⁷⁸

Briefly, the law made it clear that the board is to operate at the muhafaza level in its capacity to recommend, suggest, study and establish priorities for short and long-run development programs previously prepared by the regional consultative council. The board is called to a meeting at least once a month in order to discuss the agenda previously arranged by the muhafez or secretary of the board pursuant to a request from the muhafez.⁷⁹ However, the members ought to be informed about the agenda at least one week before the fixed date of the session.⁸⁰ The representative of the ministry of general

⁷⁷The Official Gazette, no. 29, (April 11, 1963), Decree No. 12417 dated April 2, 1963, art. 2, p. 1255.

⁷⁸Ibid.

⁷⁹Ibid., art. 3.

⁸⁰Ibid.

planning who is the secretary of the board in collaboration with the representative of the social welfare service, prepares the meetings and submits the document and files relating to the matter set out in the agenda; follows up the implementation of the resolutions adopted by the board; and notifies the ministry of general planning about the decisions reached.⁸¹ The deliberations are considered legal only when the quorum is more than half the membership.⁸² Action is taken by simple majority vote.⁸³ The chairman casts the deciding vote in case of a tie.⁸⁴ Then the minutes of the meetings are recorded in a special register according to the date of their holding and are signed by all the present members.⁸⁵ However, each member is allowed to inform his ministry about the resolutions adopted at the meetings whenever they pertain to matters concerning that ministry.⁸⁶ Moreover, the board reports its recommendations to the ministry of planning⁸⁷ presumably to its director-general.

(iii) The Regional Consultative Councils:

In every muhafaza there is a regional consultative council composed of the muhafez as chairman, the representative of the ministry of general planning as secretary, the representative of the social welfare service in the muhafaza as an assistant secretary, the qaim maqams of the muhafaza and of 12 other members who are appointed for

⁸¹Ibid., art. 4.

⁸⁵Ibid., art. 5.

⁸²Ibid., art. 3.

⁸⁶Ibid., art. 6.

⁸³Ibid.

⁸⁷Ibid., art. 4.

⁸⁴Ibid.

a period of four years on the proposal of the muhafez and approval of the ministry of general planning.⁸⁸ The twelve members are selected in such a way that they represent geographical distribution as well as the most important economic and social activities which come within the development plan of the muhafaza.⁸⁹ The vice-president of the council is appointed from amongst the non-governmental officials.⁹⁰ Each qada is represented at least by one member who is not an employee of the state.⁹¹ Every appointed member, moreover, is required to meet certain minimum qualifications which include being 30 years old at least, a permanent resident of the muhafaza, well-educated and proved theoretically or practically efficient in the field of development on a group level or proved successful in an individual project in one or several fields of economic and social activities.⁹²

The council is called to two meetings every year, one on the first Monday of March and the other on the first Monday of October.⁹³ Each session is held for a maximum period of five days.⁹⁴ However, the muhafez is allowed to call the council to hold meetings during days other than those specified for the ordinary sessions provided the duration is not in excess of two days.⁹⁵ The meetings are not

⁸⁸The Official Gazette, No. 30, (April 18, 1963), Decree No. 12493 dated April 9, 1963, art. 1, p. 1415.

⁸⁹Ibid., art. 2.

⁹⁰Ibid., art. 3.

⁹¹Ibid., art. 4.

⁹²Ibid., art. 5.

⁹³Ibid., art. 7, p. 1416

⁹⁴Ibid.

⁹⁵Ibid., art. 8.

public.⁹⁶ However, the members of the regional technical board may attend the meetings upon the request of the muhafez.⁹⁷ Moreover, the heads of the regional activities bureau and studies bureau of the social welfare service can attend the meetings of the council without the right to vote.⁹⁸ The quorum is more than half of the membership⁹⁹ and voting is not secret.¹⁰⁰ If the necessary quorum is not secured, the meeting is adjourned.¹⁰¹ A second meeting is held at least six hours after the one that preceded it, and this time it is not necessary to have the required quorum.¹⁰² Action is taken by simple majority vote.¹⁰³ The muhafez casts the deciding vote in case of a tie.¹⁰⁴ The decisions of the council are recorded in a special register in accordance with the seriality of the dates after it is signed by all the present members.¹⁰⁵ Should any body fail to sign, the reasons must be noted down.¹⁰⁶ In addition, at the end of every ordinary

⁹⁶Ibid., art. 11.

⁹⁷Ibid.

⁹⁸Ibid.

⁹⁹Ibid., art. 10.

¹⁰⁰Ibid., art. 14.

¹⁰¹Ibid., art. 10

¹⁰²Ibid.

¹⁰³Ibid., art. 14.

¹⁰⁴Ibid.

¹⁰⁵Ibid., art. 15.

¹⁰⁶Ibid.

meeting, the muhafez prepares a statement about the results together with an analysis of the different views of the members which may be relied upon when preparing the plan for the muhafaza and sends it to the ministry of general planning.¹⁰⁷

The council plays an important role at the muhafaza level for it advises the ministry on the development programs of the muhafaza and on the local projects and subsidiary plans laid down by the various ministries and public agencies.¹⁰⁸ It, moreover, reports on the progress of the projects embodied in the general plan.¹⁰⁹ The council, also, renders its views on any matter submitted by the muhafez in relation to economic and social development.¹¹⁰ Finally, it submits its proposals in connection with the development plan in the muhafaza.¹¹¹

The representative of the ministry of planning who is the secretary of the council submits a detailed report to the ministry about the council's activities together with a copy of the resolutions adopted.¹¹² The report includes any additional projects which he deems as expedient for implementation.¹¹³ In this respect he plays a more important role than any other member of the council with the exception of the muhafez.

The law provided that should the seat of any member become vacant, a successor is appointed for the remaining period of the predecessor.¹¹⁴ However, any member of the council other than the

¹⁰⁷ Ibid., art. 13.

¹⁰⁸ Ibid., art. 6.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² Ibid., art. 12.

¹¹³ Ibid.

¹¹⁴ Ibid., art. 16.

governmental employees may be discharged from office on the proposal of the muhafez and the confirmation of the ministry of general planning.¹¹⁵ Such provision in effect implies that the appointed members serve under the pleasure of the muhafez who plays an ever increasing role in the economic and social development of the muhafaza. Moreover, the members of the council receive a lump-sum salary as a remuneration for their services. Thus every qaim maqam and every member who represents the qada is entitled to L.L. 35 for each day of attendance.¹¹⁶ In addition, each member who represents the muhafaza is entitled for L.L. 25 for each day of presence in the sessions.¹¹⁷ Moreover, the muhafez who is the chairman as well as the vice chairman are entitled to a lump sum remuneration of L.L. 40 for every day of presence in the council's meetings.¹¹⁸ The stipulation, it is hoped, might encourage the council to assume its responsibilities adequately and efficiently from the very beginning of its operation.¹¹⁹

(iv) Multi-purpose Teams or "Equipe Polyvalentes":

The government issued on April 9, 1963, decree No. 12492 organizing the activities of the multi-purpose teams which were

¹¹⁵ Ibid., art. 17.

¹¹⁶ Ibid., art. 18.

¹¹⁷ Ibid.

¹¹⁸ Ibid.

¹¹⁹ One cannot foretell anything about the effectiveness of the regional consultative council which has not yet been formed. Thus, although, it was established by clause 2 of article 12 of the law of June 12, 1962, the regulations defining its composition and functions were not enacted until April 9, 1963 when decree No. 12493 was promulgated.

created by the law of June 12, 1962. In every city of the muhafaza there would be an "equipe polyvalente" composed of two members of the social welfare service and of 4-6 members who are graduates of the institute for development training and holders of university degrees in the field of agriculture, civil engineering, public health, education, statistics, law, economics, urban and rural administration, administrative organization and social affairs and social sciences.¹²⁰ Each team would work jointly with the local authorities and would be under the supervision of the muhafez, and linked with the representatives of the ministry of general planning in the muhafaza, namely the heads of the departments of the regional activities bureau.¹²¹ The multi-purpose teams study, in collaboration with the social workers and other local technicians, the economic and social conditions in the cities of the muhafaza.¹²² They, also, analyse the results of successful developmental tasks, controls the authenticity of the data resulting from studies and investigations, make the population feel the importance of development operations by giving them the opportunity to participate therein through local technical committees or through bodies and individuals, provides technical assistance to the local bodies and officials of the various ministries whenever needed, and

¹²⁰The Official Gazette, No. 30, (April 18, 1963), Decree No. 12492 dated April 9, 1963, art. 2, p. 1413.

¹²¹Ibid., art. 5, 15, and 16, pp. 1414-15.

¹²²Ibid., art. 6, p. 1414.

prepares the preliminary projects of local development on the city scope and within the plan incorporated for the muhafaza.¹²³ The muhafez is required to ensure the material as well as the administrative facilities which would help the "esquire polyvalentes" in the performance of their duties.¹²⁴ This task is accomplished in cooperation with the regional technical board¹²⁵ which devises plans for the development of the region and submits its recommendations to the consultative council at the muhafaza level after taking into consideration the suggestions of the multi-purpose teams. The council which secures liaison between the muhafaza and the multi-purpose teams reviews the recommendations of the technical board and sends them to the ministry of general planning for incorporation in the general plan.¹²⁶

(k) The Social Welfare Service:

The central bureau is represented in the muhafaza by an official of the third category who exercises under the supervision of the muhafez and in cooperation with the representatives of the ministry of labor and social affairs various functions in the field of social welfare.¹²⁷ The representative of the social welfare service in the

¹²³Ibid.

¹²⁴The responsibility for helping the "quipe Polyvalentes" is entrusted to the qaim maqams also because the former are found also on the qada level. Ibid., art. 7 and 16.

¹²⁵Ibid., art. 7.

¹²⁶The Official Gazette, No. 30, (April 18, 1963), op. cit., art. 6, p. 1416.

¹²⁷The Official Gazette, No. 5, (January 27, 1960), decree No. 3127 dated January 23, 1960, art. 31, p. 36.

region presents his suggestions in relation to appropriations that are to be allocated to social welfare programs, recommends financial help to already existing social projects, recommends grants and loans for carrying out new social projects, watches the implementation of social projects, directs Lebanese youth towards vocational education and supervises the existing vocational schools.¹²⁸ Moreover, he inspects the activities of hospitals, orphanages, vocational schools, vocational training institutes, vocational and social programs of religious establishments and all other establishments which are non-profit making in character.¹²⁹ In addition he studies the social situations in the muhafazas and suggests methods for its improvement, defines the social needs of the inhabitants and the extent of their importance, follows up the execution of social welfare programs and supervises the use of land granted to private establishments.¹³⁰ Finally, the muhafaiz recommends, after asking the opinion of the representative of the social welfare agency, the permission for establishing social centres whenever there is a request for it.¹³¹

(1) The Muhafaiz and Civil Defense Activities:

In every muhafaza there is a civil defense board composed of

¹²⁸ The Official Gazette, No. 44, (July 31, 1959), Legislative Decree No. 3127 dated January 23, 1950, art. 31, p. 36.

¹²⁹ Ibid.

¹³⁰ The Official Gazette No. 5, (January 27, 1960), op.cit., art. 2, p. 29.

¹³¹ Ibid., art. 46, pp. 44-45.

the muhafez as chairman and the membership of the military regional commander, the chief of the internal security forces, the head of the finance department, the head of the land registry department, the mayor and physician of the municipality of the chief town in the muhafaza, the regional director of public works, the representative of the civil defense directorate, the representative of the directorate-general of telephones, the representative of the ministry of public health, the head of the education department in the region, the representative of the ministry of labor and social welfare, the representative of the reconstruction agency and the head of the fire fighting service.¹³² The function of this board is to offer its advice to the civil defense directorate on all the questions relating to plans, programmes and projects of civil defense in the muhafaza. The recommendations are then studied by the civil defense directorate which takes the necessary steps in this connection.¹³³

There is a civil defense expert who advises and helps the muhafez in the supervision, control and organization of civil defense services in the muhafaza.¹³⁴ However, it is the muhafez alone who ensures the proper performance of civil defense activities by putting under the disposal of the different ministerial offices all the neces-

¹³²The Official Gazette, No. 42, (September 27, 1961), Decree No. 7563 dated September 8, 1961, art. 22, pp. 1142-1143.

¹³³Interview with the Civil Defense Expert, Lieutenant Nakhla Azar, November 29, 1963.

¹³⁴The Official Gazette, No. 35, (July 4, 1959), Legislative Decree No. 159 dated June 12, 1959, art. 9, p. 1007.

sary means needed in the implementation of its work.¹³⁵

Thus, the muhafez is responsible on behalf of the ministry of interior, for the training of the salvage battalion, the maintenance of vehicles relating to both fire-fighting and salvage battalions, preparation of statistics about the heavy lorries and equipment needed, control of electric lights and taking precautions for evacuation of places exposed to danger.¹³⁶ Moreover, he is required to ensure the regulation of traffic, the enactment of plans pertaining to the evacuation of governmental offices, the preservation of national treasures and the preparation of statistics about the number of inhabitants living in each coastal city and its neighbouring villages.¹³⁷

The muhafez is responsible, on behalf of the ministry of health, for letting physicians, health supervisors and nurses participate in civil defense activities; the regulation of vehicle ambulances and the transfer of patients, battalions, collection of statistics about lorries and equipment needed with a view to their expropriation and conversion into ambulance vehicles during wartime; evacuation of hospitals located in dangerous spots and the establishment of first-aid centres.¹³⁸ Moreover, he sees to it that the training of members in either the Red Cross or charitable Lebanese women associations is

¹³⁵ Ibid.

¹³⁶ The Official Gazette No. 42, (September 27, 1961), op.cit., art. 6 and 24, pp. 1138 and 1143.

¹³⁷ Ibid.

¹³⁸ Ibid., art. 7 and 24, pp. 1139 and 1143.

carried out.¹³⁹

The muhafez is required, on behalf of the ministry of public works, to provide the fire brigade service with water, secure drinking water free from germs and atomic deposits, supervision of municipal plans regarding the maintenance of sewage systems; the rendering of assistance to municipalities in clearing debris, demolishing cracked buildings and the reparation of roads, pipes, drains and water systems; and the placement of unoccupied buildings, built by the reconstruction agency, under the disposal of the directorate of civil defense.¹⁴⁰

The muhafez is responsible, on behalf of the ministry of education, to ensure the training of students in civil defense operations at the intermediary school stages. In addition, he is required to place government school buildings under the disposal of civil defense trainers outside normal school hours for the purpose of delivering lectures and lessons to volunteers.¹⁴¹ Moreover, it is his duty to generalize civil defense training among the sports and scouting clubs.¹⁴²

The muhafez is required, on behalf of the ministry of labor and social affairs, to collect statistics of laborers during wartime.¹⁴³

¹³⁹ Ibid.

¹⁴⁰ Ibid., art. 8 and 24, pp. 1139, 1140 and 1143.

¹⁴¹ Ibid., art. 9 and 24, pp. 1140 and 1143.

¹⁴² Ibid.

¹⁴³ Ibid., art. 10 and 24, pp. 1140 and 1143.

In addition, he takes over, stores and upkeeps valuable personal properties and returns them to their owners when bombing ceases.¹⁴⁴

The muhāfēz is responsible, on behalf of the ministry of information, to carry out propaganda emphasizing the need for civil defense and the necessity for acquainting one's self with its principles.¹⁴⁵ Moreover, he establishes information centres for guiding destitutes.¹⁴⁶

The muhāfēz ensures, on behalf of the ministry of post, telegraph and telephone, that siren and communication systems are kept in permanent contact with the radar centres.¹⁴⁷

The muhāfēz, on behalf of the ministry of agriculture, is responsible for providing engineers, veterinarians, agricultural assistants, assistant veterinarians and forestry officers who participate in civil defense activities.¹⁴⁸ He also places tractors and machineries under the disposal of civil defense officials. Moreover, he secures storage of chemicals and agricultural materials as well as their distribution when it is necessary. Finally, he creates anti-fire stations for fire extinguishing by means of chemicals and excavation machinery.¹⁴⁹

¹⁴⁴ Ibid.

¹⁴⁵ Ibid., art. 11 and 24, pp. 1141 and 1143.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid., art. 12 and 24, pp. 1141 and 1143.

¹⁴⁸ Ibid., art. 17 and 24, pp. 1141-1143.

¹⁴⁹ Ibid.

The muharez secures, on behalf of the ministry of economics, the storage of food commodities in safe areas, distributes food to destitutes during wartime, ensures work in factories and workshops and prepares plans for keeping factories away from the places exposed to bombing.¹⁵⁰

2. The Control Exercised by the Muhafez over the Offices of the Ministries in the Muhafazas

The business of the offices of the regional organization which is shown in chart IV-1 below is subject to central control.

Thus the work of the employees of the different ministries in the muhafazas is under the supervision of the central inspection board which is attached to the council of ministers.¹⁵¹ Through administrative, technical or financial inspection, the board controls the actions and activities of the various employees. Its role in this respect is primarily the coordination of effort among the different regional offices and the investigation and study of any question entrusted to it by the muharez.¹⁵² The annual inspection program, whose objective is to reveal whether the employees perform their duties and responsibilities properly, is prepared in December after consultation with the muharez.¹⁵³ Extraordinary inspection schedules, however, are

¹⁵⁰ Ibid., art. 18 and 24, pp. 1142-1143.

¹⁵¹ The Official Gazette, No. 129 (June 20, 1959), Legislative Decree No. 115 dated June 12, 1959, art. 1, p. 588.

¹⁵² Ibid., art. 2, p. 588.

¹⁵³ Ibid., art. 12, pp. 593-594.

carried out whenever the need for them arises.¹⁵⁴

It was stated earlier that the muhafez is responsible for all the affairs of his muhafaza and the regional offices of the various ministries in it. As a result the muhafez inspects and controls all the offices and civil servants and administers the personnel matters of the latter in accordance with the personnel law.¹⁵⁵ As regards the regional civil servants of the ministries of justice and national defense, he is entrusted with the duty of informing their ministries, whenever he sees fit, on any irregularity or mismanagement in which they are involved.¹⁵⁶ Since he is responsible for the execution of laws and regulations in his region, and to do so in the best way, he is entrusted to take all the proper measures for the co-ordination and accomplishment of work. To perform this function he is entitled to make personal inspection or meet the heads of the offices either separately or in joint sessions.¹⁵⁷ Moreover, he observes the economic, political, agricultural and security conditions of his muhafaza and conveys his observations monthly or whenever necessary, to the minister of interior.¹⁵⁸

¹⁵⁴ Ibid.

¹⁵⁵ The Official Gazette, No. 29, (June 20, 1959), Legislative Decree No. 116 dated June 12, 1959, art. 7, p. 600.

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

¹⁵⁸ Ibid., art. 9, 20 and 24, pp. 601-602.

Chapter V

THE RELATIONS BETWEEN THE MUHAFEZ AND MUNICIPALITIES

The muhafezin exercise control over the municipal elected bodies on behalf of the central authorities. Hence, this chapter will deal with the supervision done on the activities of the municipalities as in cases when the muhafez retains the right to approve part of the resolutions passed by local bodies or to annul and cancel the decisions emanating from them or whenever he is entitled to dissolve or suspend some of the members of the municipal bodies in certain determined cases.

After independence, the first body of rules to regulate the municipalities in Lebanon was the municipal law of November 27, 1947. The 1947 law was followed by legislative decree No. 5 dated October 31, 1952. This decree remained in effect for approximately twenty-six months when it was abolished and replaced by legislative decree No. 5 which was promulgated on December 10, 1954. Almost nine and a half years later the 1954 municipal law was replaced by municipal law No. 29 which was issued on May 29, 1963, and under which the municipalities are still being governed. However, it must be emphasized that the general framework of the 1947 law has not changed. Therefore, the author will not go into elaborate explanation of the specific provisions of the above mentioned laws. Only the 1947 law will be discussed in detail while the recognized changes introduced in later laws will be mentioned. Finally, the author will proceed to discuss in detail the present municipal law in so far as it pertains to the office of the muhafez.

The 1947 Municipal Law: The muhafez was responsible for

drawing up an electoral list prepared according to the statistics supplied by the moukhtars and mayors of municipalities.¹ Upon the publication of the electoral municipal list fifteen days were allowed for the presentation of claims of error² which were decided by a registration commission composed of the muhafez as chairman and the membership of a judge from the court of first instance, an employee from the personal status bureau and two other voters chosen by the muhafez.³

The place and date of municipal elections were determined in accordance with an arrete issued by the minister of interior on the recommendation of the muhafez.⁴ Moreover, the minister of interior appointed the president of each voting bureau or precinct pursuant to the suggestions of the muhafez.⁵

The municipal council was to be dissolved by executive decree in cases where it exceeded the powers assigned to it. In such circumstances, the muhafez was required to appoint a committee for administering the affairs of the municipality.⁶

¹The Official Gazette, No. 49, (December 3, 1947), the Municipal Law of November 27, 1947, art. 14, p. 723.

²Ibid., art. 17.

³Ibid., art. 19, p. 724.

⁴Ibid., art. 28, p. 725.

⁵Ibid., art. 29.

⁶Ibid., art. 48, p. 726.

The number of municipal council meetings varied depending on whether the size of the municipality was large or small. The council of a small municipality, which had a population of less than 10,000,⁷ met whenever it was called by its mayor. It also met at the request of the muhafez, qaim maqam or the majority of its members.⁸

The council of a large municipality, which had a population of 10,000 people or more, was required to meet three times a year in the months of February, June and November. Those dates were fixed through arretes issued by the mayor and each session lasted for one month.⁹ The mayor on his own accord, by a request of the muhafez or qaim maqam or by a petition signed by half the total number of members, was given the authority to call for an extraordinary meeting of the council which lasted no more than fifteen days.¹⁰

The notice and agenda for the meeting of the council was written in a special register, and two copies were sent to the qaim maqam who forwarded one copy to the muhafez.¹¹

The municipal council meetings were not open to the public. The muhafez and qaim maqam, however, were allowed to attend the discussion if they wished to render their advice without having the

⁷Ibid., art. 9, p. 723.

⁸Ibid., art. 59, p. 727.

⁹Ibid., art. 56.

¹⁰Ibid., art. 37, p. 725.

¹¹Ibid., art. 80, p. 727.

right to vote.¹²

The functions of the council fell into three categories depending on the type of decisions which were made. Decisions in the first category were executory one month after receipt by the muhafez. However, during that time, they were subject to his veto for violation of the law or if there was any objection to the decision on the part of persons having interest in it.¹³ Likewise, the muhafez was allowed to defer execution for a further period of fifteen days after the expiration of the month. In cases of urgency, the muhafez was permitted to order immediate execution before the end of the month.¹⁴ Functions subject to the approval of the muhafez were:¹⁵

1. The administration of municipal property.
2. Lease contracts providing for a period less than three years.
3. Purchase of immovable property provided the total annual cost did not exceed one tenth of the total annual revenues of the municipality.
4. Projects, plans and estimates which were connected with the maintenance of property when the total annual cost did not exceed one tenth of the total amount approved in the budget for all works of that kind.

¹²Ibid., art. 64, p. 728.

¹³Ibid., art. 75, p. 729.

¹⁴Ibid.

¹⁵Ibid.

5. The insurance of municipal buildings.
6. The fixing of tariffs for transportation by cars, vehicles and animals.
7. Financial aid to the poor and destitute.
8. All construction projects which were submitted to the council for approval.
9. The acceptance or refusal of donations received without charge or condition provided the gift was not subject to reclamation by the families concerned.

Other decisions were not executory until the approval of the minister of interior. These were:¹⁶

1. The municipal budget.
2. The municipal rates.
3. Leases for periods exceeding three years.
4. Sale and purchase of property which exceeded one tenth of the total annual revenues of the municipality.
5. Projects, plans and estimates which were connected with the maintenance of property provided that their total annual cost exceeded one tenth of the total amount approved in the budget for all works of this kind.
6. Settlement of conflicts and disputes.
7. Matters relating to night-guards, fire brigades, public sanitation, municipal police, hospitals, schools, water and electric

¹⁶Ibid., art. 76, p. 73Q.

supply, cemeteries, sewage systems, cinemas, and public baths.

8. The acceptance of donations which places the municipalities under obligations.

9. Resolutions purporting to set up permanent regulations.

10. Extraordinary expenses and loans.

11. The conversion of municipal property which was used for a public purpose to a private purpose.

12. Any change in the conditions or status of public roads, highways, gardens, parks, markets, shooting and race courses, etc.

In case the minister of interior failed to approve or disapprove a resolution connected with the above mentioned functions within one month from the date of receipt, then the decision became executory.¹⁷

At the same time the muhafez, upon the request of the central authorities, called the council in order to render its advisory opinion with regard to the following subjects:¹⁸

1. Projects of alignment and leveling of grand highways falling within the boundaries of a municipality.

2. Creation of charitable bureaus and their regulation.

3. Budgets and accounts of municipal charitable establishments created by private donations; authorization for purchase, alienation, transfer, borrowing, exchange or pleading demanded by such organizations.

¹⁷ Ibid., art. 77, p. 13.

¹⁸ Ibid., art. 85, p. 731.

4. Any question which was presented to it by the muhafez for consultation.

In case the council failed to render its opinion after having been formally requested, action proceeded without it.¹⁹

The duties of the mayor varied in scope depending on whether the municipality was a large or small one. However, the legal functions of the mayor in small municipalities did not differ greatly from those in large ones. His principal duties constituted acts of administration, health services, security and order, social affairs and public affairs.²⁰

Arretes issued by the mayor of a large municipality were despatched immediately to the muhafez who submitted them to the minister of interior. If they contained permanent regulations, they were not definitive until approved by the minister. All other arretes were executory fifteen days after their dispatch to the minister of interior.²¹ Moreover, the mayor appointed and dismissed all municipal personnel in accordance with the general regulations in force.²²

In the small municipalities, the mayor's arretes fell under more strict supervision and control. Thus, he was responsible for the implementation of the following duties under the supervision of

¹⁹Ibid.

²⁰Ibid., art. 91 and 111, pp. 733 and 735.

²¹Ibid., art. 94, p. 733.

²²Ibid., art. 95, p. 734.

the muhafez.²³

1. Conservation and administration of municipal property.
2. Administration of revenues and supervision of accounts.
3. Preparation of the budget.
4. Direction of public works.
5. Supervision of municipal highways.
6. Signing of contracts and leases on behalf of the municipality.
7. Signing of all acts of sale, exchange, apportionments,

acceptance of gifts and donations and other requisitions.

8. Representation of the municipality before the courts.
9. Execution of all decisions passed by the municipal council.

The decisions of the mayor were sent first to the muhafez who gave him an acknowledgment receipt. The muhafez then transmitted the resolutions with his recommendations to the minister of interior.²⁴ Decisions relating to permanent regulations were not executory unless they were approved by the minister. However, other resolutions became effective after one month from the date of their receipt by the muhafez. The minister of interior was entitled to cancel the decisions or suspend their execution and could give orders for their immediate enforcement if he believed they were in the public interest.²⁵

In small municipalities the mayor was assisted by officials appointed by him and approved by the muhafez.²⁶ These officials

²³ Ibid., art. 111, p. 735.

²⁴ Ibid., art. 115, p. 736.

²⁵ Ibid.

²⁶ Ibid., art. 107, p. 735.

included the town clerk, the cashier, the municipal engineer, the municipal doctor in charge of health services and the veterinary doctor.²⁷

Every small municipality was allowed to recruit guards, messengers and sanitary inspectors. These officials were appointed, dismissed or suspended from office by the mayor after the confirmation of the muhafez.²⁸ In addition to these officials and employees, the municipal council appointed other persons for new posts after the approval of the muhafez.²⁹

No municipality enjoyed the right to institute action in court without the authorization of the muhafez. The muhafez used to give his decision within one month failing which the municipality proceeded on its own.³⁰

Moreover, no municipality was to be sued except when the claimant had presented a memorandum to the muhafez explaining the reasons for his request to institute judicial action. However, judicial action was not to be initiated until one month after the date of receipt of the memorandum without prejudice to the claimant's rights of conservation. Furthermore, the presentation of the memorandum interrupted any prescription or forfeiture if it was followed by action in court within three months. The muhafez was required on his part to submit such memorandum to the mayor with a request that

²⁷ Ibid.

²⁸ Ibid., art. 118, p. 736.

²⁹ Ibid., art. 108, p. 735.

³⁰ Ibid., art. 83, p. 731.

the council ought to be convoked for deliberation thereon.³¹

The municipal council was required to prepare the proposed fiscal plan of revenues and expenditures during the November session. In case it was not approved before December 31, it was referred to the minister of interior as prepared by the mayor for confirmation.³² The minister of interior was entitled to cancel or amend any provisions of the funds if the welfare of the municipality required that.³³ If the budget was not approved by the minister of interior before the end of December, the budget of the previous fiscal year was used as a basis for spending until the new budget had been approved.³⁴

Municipal expenditures were either obligatory or optional. The muhafez possessed the right of including in the budget any obligatory expenditure which consisted of the following:³⁵

1. Expenses for the maintenance or rent of the municipal building.
2. The payment of municipal debts.
3. Expenses of municipal administration and salaries of municipal personnel.
4. Expenses of maintaining, clearing and lighting the streets.
5. Expenses of establishing and maintenance of plans for aligning and leveling the streets.
6. Cost of subscription to the official gazette.

³¹ Ibid., art. 84.

³² Ibid., art. 58, p. 727.

³³ Ibid., art. 120, p. 737.

³⁴ Ibid., art. 129, p. 739.

³⁵ Ibid., art. 122, p. 738.

7. Expenses necessary for execution of daily municipal works.

All other expenditures were considered optional. Moreover, municipal accounts were referred to the minister of interior for examination and approval.³⁶

In exceptional cases, a municipality was allowed to submit a supplementary budget. This budget was referred to the minister of interior for final approval.³⁷ When necessary the municipal council was able during the year to make transfers between the item heads of expenditure provided the transfers were not contrary to the regulations of the municipality, the amount transferred did not exceed the approved expenditures and that the transfer was approved by the minister of interior.³⁸

The municipal budget was officially issued in the form of a resolution taken by the mayor and confirmed by the minister of interior. This resolution was then published in the Official Gazette after which it became effective.³⁹

The Municipal Law of 1952: Legislative decree No. 5 dated October 31, 1952 amended some provisions of the 1947 municipal law pertaining to the muhafez of Beirut. Thus, the executive power in the municipality of Beirut was entrusted to him.⁴⁰ The muhafez was

³⁶ Ibid., art. 134, p. 738.

³⁷ Ibid., art. 130.

³⁸ Ibid., art. 131.

³⁹ Ibid., art. 132.

⁴⁰ The Official Gazette, No. 45, (November 5, 1952), legislative decree No. 5 dated October 31, 1952, art. 129, p. 909.

required to execute the decisions of the municipal council within a period of three months from the first date of notification. In cases where he failed to do so, the municipal council was authorised to implement its decision, through the mayor, after a lapse of ten days from the date of warning.⁴¹

The law, moreover, entitled the muhafez of Beirut to perform the following duties in his capacity as the head of the municipal government:⁴²

1. The direction and supervision of all municipal departments.
2. The conservation and administration of municipal property.
3. The checking of disbursements, collection of revenues and all financial transactions related to the municipality.
4. The presentation at the beginning of each session a report to the council on the activities of the municipality.
5. The preparation of the budget.
6. Direction of public works.
7. Signing of all acts of sale, exchange, purchase, apportionment, acceptance of gifts and donations or other acquisitions.
8. The representation of the municipality before the courts.
9. Supervision of all precautionary and relief measures at times of public catastrophe such as fires, floods, epidemics, and accidents of all sorts.

⁴¹Ibid., art. 130, p. 909.

⁴²Ibid., art. 81, p. 897.

10. Precautions against and relief for depredation by straying or wild animals.

11. The disposal of insane persons threatening public safety or morals.

12.. All the arrangements for regulation of the burial procedure.

13. The control of everything affecting free and undisturbed passage in public streets as destruction of dangerous structures and removal of falling articles.

The Municipal Law of 1954: The significance of legislative decree No. 5 dated December 10, 1954 was its allowing for a high degree of deconcentration. Thus, some of the powers previously held by the minister of interior were transferred to the muhafez and the powers previously attributed to the muhafez were given to the qaim maqam.

According to the 1954 law, the delimitation of municipal boundaries was executed by the muhafez at the expense of the municipalities concerned.⁴³ The muhafez was granted the authority to dismiss any member of the municipal council who had been condemned for a crime or an illegal offense.⁴⁴ In addition the municipal council was permitted to give a salary to the mayor or his deputy only after the consent of the muhafez.⁴⁵ Moreover, the resignations of the mayor

⁴³The Official Gazette, No. 51, (December 15, 1954), legislative decree No. 5 dated December 10, 1954, art. 6, p. 873.

⁴⁴Ibid., art. 36, p. 878.

⁴⁵Ibid., art. 40, p. 878.

or other members from office were submitted to the muhafez who decided whether to accept it or not.⁴⁶ Furthermore, whenever the mayor or municipal council refused to accomplish duties incumbent upon them, the qaim maqam assumed responsibility for the action after warning the mayor and getting the approval of the muhafez.⁴⁷ However, the muhafez was entitled to stop the execution of any arrete for reasons connected with security and order.⁴⁸

In case the municipal council failed to discuss and approve the municipal budget before December 31, the mayor was required to submit it to the muhafez for approval.⁴⁹ The muhafez, moreover, was entitled to cancel or amend any provision of the funds if the welfare of the municipality demanded it.⁵⁰ Likewise, the muhafez was allowed to approve supplementary budgets submitted by the municipal councils in exceptional cases.⁵¹ Moreover, the muhafez was empowered to allow the making of transfers between the item heads of expenditure on the request of the municipality concerned.⁵²

⁴⁶Ibid., art. 43, p. 879.

⁴⁷Ibid., art. 44, p. 879.

⁴⁸Ibid.

⁴⁹Ibid., art. 48, p. 880.

⁵⁰Ibid., art. 109, p. 899.

⁵¹Ibid., art. 119, p. 900.

⁵²Ibid., art. 120, p. 901.

Some decisions which were effective according to the 1952 law after the confirmation of the minister of interior became subject to the approval of the muhafez under the 1954 law. These included:⁵³

1. The municipal budget.
2. Municipal fees.
3. Rent contracts that did not exceed three years.
4. The purchase of property which exceeded one tenth of the annual revenues of the municipality.
5. Projects, plans and estimates for major reparations or maintenance when the total expense exceeded one tenth of the ordinary revenues approved in the budget for all works of this kind.
6. Settling disputes and conflicts.
7. Acceptance or refusal of gifts and donations bearing any charge or conditions or with power of reclamation by the families.
8. Matters relating to night-guards, fire brigades, public health, municipal police, shelter houses, hospitals, schools, water and electric supply, market places, cemeteries, sewage systems, cinemas, race courses, and public baths.

However, the following decisions became executory in the two municipalities of Tripoli and Al-Mina upon the approval of the muhafez,⁵⁴ and were effective in all other municipalities after the consent of the qaim maqam.⁵⁵

⁵³ Ibid., art. 66, p. 886.

⁵⁴ Ibid., art. 129, p. 902.

⁵⁵ Ibid., art. 65, p. 884.

1. The administration of municipal property.
2. Lease contracts providing for a period less than three years.
3. Purchase of immovable property when the total cost, including all other acquisitions voted in the same financial year, did not exceed one tenth the ordinary revenues of the municipality.
4. Projects, plans and estimates for reparation or maintenance when the total expense of all such expenditures for the fiscal year did not exceed one tenth the ordinary revenues of the municipality.
5. The insurance of municipal buildings.
6. The fixing of tariffs for transportation by vehicles, cars and animals.
7. Financial aid to the poor and destitute.
8. All construction, demolition or reconstruction projects in whole or part which were presented to the municipal council for approval.
9. The acceptance or refusal of gifts and donations received without charge or condition, provided the gift or donation was not subject to reclamation by the concerned families.

Moreover, the mayor appointed, dismissed or suspended from office, after the approval of the qaim maqam, such officials⁵⁶ as the town clerk, the cashier, the municipal engineer, the municipal doctor

⁵⁶The appointment, dismissal or suspension of these employees was subject to the approval of the muhafez according to the 1952 municipal law. The Official Gazette, No. 45, (November 5, 1952), legislative decree No. 5 dated October 31, 1952, art. 97 and 108, pp. 902-903 and 906.

in charge of health services, the veterinary doctor, guards, messengers and sanitary inspectors.⁵⁷

Finally, the following decisions which were previously executory upon the approval of the muhafez, became effective after the consent of the qaim maqam.⁵⁸

1. Conservation and administration of municipal property.
2. Administration of revenues and supervision of accounts.
3. Preparation of the budget.
4. Direction of public works.
5. Supervision of municipal highways.
6. Signing of contracts and leases on behalf of the municipality.
7. Signing of all acts of sale, exchange, apportionments, acceptance of gifts or donations and other acquisitions.
8. Representation of the municipality before the courts.
9. Execution of all decisions passed by the municipal council.

Decree No. 14982 of February 15, 1957: The most important aspect of that decree was its amendment of article 129 of the municipal law issued on December 10, 1954. The new provision abolished the division of the executive power between the muhafez and mayor in the

⁵⁷The Official Gazette, No. 51, (December 15, 1954), op.cit., art. 96 and 107, pp. 895 and 898.

⁵⁸Ibid., art. 100, p. 896.

two municipalities of Tripoli and Al-Mina. Thus, the mayor and not the muhafez became responsible for the following functions:⁵⁹

1. The administration of municipal property.
2. Rent contracts which were reached for a period not exceeding three years.
3. The purchase of immovable property so long as the total expenditure did not exceed one tenth the ordinary revenues appropriated in the budget of the financial year.
4. Projects, plans and estimates for reparation or maintenance when the total expense of all such expenditures for the fiscal year did not exceed one tenth of the authorized appropriations.

The Law of February 15, 1961: The law abolished article 38 of decree No. 14892 of February 15, 1957. Under this article the dissolution of a municipal council by decree was required, whenever it exceeded its powers, failed to perform duties incumbent upon it or in case of collective resignation on the part of its members. In such situations a committee was to be formed to complete the remaining period of the local body.⁶⁰

The 1961 amendment stated that the dissolution of a municipal council by decree was required whenever it exceeded its powers, failed to function or in the case of collective resignation of its members.

⁵⁹The Official Gazette, No. 8, (February 20, 1957), Decree No. 14982 dated February 15, 1957, art. 2, p. 275.

⁶⁰Ibid.

In such circumstances, the government was allowed to appoint a committee or authorize the muhafez to run the affairs of the municipality during its remaining period.⁶¹

5. The insurance of municipal buildings.
6. Determination of fees charged for the use of cars and wagons.
7. The conduct of programs for the needy and poor.
8. Conduct of projects related to the construction, repair and demolition that were referred to the council for purposes of checking on public health and safety.
9. The acceptance or refusal of gifts and donations received without charge or condition.

The 1963 Municipal Law: The present system of municipal government in Lebanon is regulated by Municipal Law No. 29, dated May 29, 1963. According to the provisions of the law, municipalities are established in every town and village by an arrete issued by the minister of interior on the recommendation of the muhafez.⁶²

Neighbouring villages can combine together to form a municipality.⁶³ Also a village may be detached from a combined municipality. This can be done on the request of the absolute majority

⁶¹The Official Gazette, No. 8, (February 22, 1961), Law of February 15, 1961, art. 1, p. 134. Since the enactment of this law the muhafezin have been entrusted with running scores of municipalities which have been dissolved for one reason or the other.

⁶²The Official Gazette, Annex to No. 42, (May 29, 1963), Municipal Law No. 29 dated May 29, 1963, art. 2, p. 2135.

⁶³Ibid., art. 6, p. 2136.

of voters in the village asking for separation. The request, however, must be approved by the minister of interior,⁶⁴ who will then issue a decree to that effect pursuant to the suggestion of the muhafez. Moreover, the boundaries of the attached and detached municipalities are determined by the minister of interior on the basis of suggestions submitted by the muhafez.⁶⁵

Electoral Procedure: The election process must be carried out on a Sunday, starting at 8:00 a.m. and ending at 4:00 p.m. of the same day.⁶⁶ The date and place of elections are assigned by a written arrete from the minister of interior on the recommendation of the muhafez.⁶⁷ The arrete is then made known to the inhabitants at least fifteen days before the date of elections.⁶⁸

The candidate must officially notify the central government representative (the muhafez or qaim maqam) of his desire to nominate himself at least ten days prior to the election day.⁶⁹ If the governor deems that the candidate is qualified, he must acknowledge his nomination officially within a period of three days. If the governor (or sub-governor) fails to give this acknowledgment within the prescribed period the candidate may appeal to the council of state, which must

⁶⁴ Ibid., art. 2, 5, and 7, pp. 2135-2136.

⁶⁵ Ibid., art. 4, 2136.

⁶⁶ Ibid., art. 21, p. 2138.

⁶⁷ Ibid., there has been no municipal elections in Lebanon since 1952 although the laws provided for carrying it every four years. However, the municipal law of May 29, 1963, has been passed by Parliament on the basis of which new municipal elections were conducted recently.

⁶⁸ Ibid.

⁶⁹ Ibid., art. 16, p. 2137.

give its decision within three days.⁷⁰

The electoral procedure is controlled by a commission composed of a president appointed by the muhafez, two members chosen by the president himself, and two other members selected by the voters who are present at the time elections start.⁷¹ Usually one or more government clerks are also appointed by the muhafez in order to help the commission in its work.⁷²

At the time the preliminary results of the elections are announced a report is prepared on the elections in duplicate. Then the report and its duplicate are sent immediately to a special committee set up for this purpose. The special committee goes carefully through them and then the results are declared in a report form, a copy of which is posted on the main door of the government's office and another sent to the muhafez.⁷³ Any voter or candidate in the constituency may file a petition to the council of state contesting the results of the elections within a period of fifteen days after their announcement.⁷⁴

No person is allowed to be a member in more than one municipal council.⁷⁵ Close relatives also are not permitted to be members of the same municipal council. In case two close relatives are elected,

⁷⁰Ibid., art. 19, p. 2138.

⁷¹Ibid., art. 22, p. 2138.

⁷²Ibid., art. 23, p. 2138.

⁷³Ibid., art. 31, p. 2139.

⁷⁴Ibid., art. 34, p. 2139.

⁷⁵Ibid., art. 38, p. 2139.

one of them must resign.⁷⁶ If he does not do so, the muhafez or gaim maqam dismisses the younger.⁷⁷

Any successful candidate is considered to have automatically resigned pursuant to a decision taken by the muhafez if he is disqualified for any of the following reasons:⁷⁸

1. Individuals deprived of their civil rights.
2. Illiterates.
3. Individuals condemned for a crime or infamous offense.
4. Individuals condemned to imprisonment due to their belonging to prohibited secret societies.
5. Individuals under judicial interdiction.
6. Insolvents condemned for bankruptcy. Disqualification for this category holds until the resumption of their rights.

Likewise, a successful candidate for the office of a municipal council-man who holds the position of moukhtar, member of the council of elders, employee of the government, official of the municipality, employee of an enterprise in which the municipality has a controlling influence and the employee of an autonomous agency is given option of either position.⁷⁹ If within two weeks of the proclamation of the results of the elections he fails to render his decision, he is automatically considered to have resigned from his membership in

⁷⁶The law lists those relatives as a father and one of his sons or daughters, a mother and one of her sons or daughters, a husband and a wife, a father and a son-in-law or daughter in law, a mother and a son-in-law or daughter in law, brothers and sisters, an uncle and his nephew or niece, and brothers and sisters-in-law. Ibid.

⁷⁷Ibid.

⁷⁸Ibid., art. 15 and 37, pp. 2137-2139.

⁷⁹Ibid., art. 14 and 37, pp. 2137-2139.

the municipal council pursuant to an arrete issued by the muhafez.⁸⁰

Organization and Procedure of the Council: Every municipal council elects during its first session by secret ballot a mayor and a deputy for a period of 4 years. The date and place of the meeting, however, is fixed by the muhafez within fifteen days of the proclamation of the final results.⁸¹

Moreover, the meetings of the municipal council are private.⁸² The muhafez or qaim maqam are allowed to attend without having the right to vote.⁸³ Councillors absent from three successive meetings without giving satisfactory reasons may be dismissed by the muhafez or qaim maqam if either one has called upon them for an explanation.⁸⁴ However, they may appeal within ten days to the council of state.⁸⁵ Furthermore, resignations are addressed to the muhafez through the qaim maqam and are effective upon acknowledgment thereof.⁸⁶ Failing acknowledgment, a new resignation may be dispatched by registered mail and becomes automatically effective one month from the date of mailing.⁸⁷

⁸⁰ Ibid., art. 37, p. 2139.

⁸¹ Ibid., art. 39, p. 2139.

⁸² Ibid., art. 46, p. 2140.

⁸³ Ibid.

⁸⁴ Ibid., art. 56, p. 2141.

⁸⁵ Ibid.

⁸⁶ Ibid., art. 57, p. 2141.

⁸⁷ Ibid.

A municipal council is required to meet once every month or whenever it is called by the mayor.⁸⁸ In either case the summons must state the subjects for discussion.⁸⁹ The council may concern itself only with those topics cited in the agenda or which require immediate study.⁹⁰ Calling of a meeting is mandatory upon the written request of the muhafez, qaim maqam or the majority of the members of the council.⁹¹

At the session devoted to the consideration of the municipal accounts entrusted to the surveillance of the mayor, the deputy-mayor or eldest member presides. The mayor may participate in discussion, but must retire before the vote thereon. The minutes of the session are then transmitted to the muhafez.⁹²

Suspension and dissolution

The municipal councils are, therefore, chosen by the electorate without the intervention of the state, except that the rules under which the elections are held are laid down by law. However, the control of the personnel of municipal bodies is confined to the:

- (i) Dismissal or suspension of individuals.
- (ii) The dissolution of the whole body

⁸⁸ Ibid., art. 42 and 48, p. 2140.

⁸⁹ Ibid., art. 42, p. 2140.

⁹⁰ Ibid., art. 48, p. 2140.

⁹¹ Ibid., art. 42, p. 2140.

⁹² Ibid., art. 45, p. 2140.

(i) The law states that if a charge is laid against the mayor, his deputy or any other member, he is suspended by the muhafez until a decision is reached by the courts.⁹³ If found innocent, he is re-instated, otherwise he is dismissed.⁹⁴ Moreover, each member is dismissed by an arrete of the muhafez pursuant to the suggestion of the disciplinary council or on the recommendation of the central inspectorate board.⁹⁵ In addition, the muhafez can dismiss any member of the municipal council who has been condemned for a crime or illegal offense.⁹⁶ Finally, the muhafez is required to suspend any member for any period of time, whenever administrative investigations are conducted. The member remains suspended until the muhafez estimates, on his own accord, that the conditions which imposed such action have ceased to exist.⁹⁷

(ii) The municipal council as a body can be dismissed by the minister of interior on the recommendation of the muhafez if it is unable to function, or if it abuses its powers, when it neglects to perform duties incumbent upon it or when it commits grave violations which cause harm to the municipality.⁹⁸ However, before such measure is resorted to, the minister of interior ought to be sure about the allegations directed against the municipality as embodied through

⁹³ Ibid., art. 84, p. 2145.

⁹⁴ Ibid.

⁹⁵ Ibid., art. 85, p. 2145.

⁹⁶ Ibid., art. 84, p. 2145.

⁹⁷ Ibid., art. 86, p. 2146.

⁹⁸ Ibid., art. 81, p. 2145.

written reports sent by the muhafez.⁹⁹ In addition, the municipal council is considered automatically dissolved pursuant to a decision taken by the muhafez in cases of collective resignation, when the elections bringing it into power are considered illegal by the council of state, if the central inspection board asks for its dismissal or when the collected revenues fall short of half the appropriated revenues estimated for the fiscal year.¹⁰⁰

The law states further that the dissolved council must be reinstated within two months from the date of its dissolution by calling the voters to re-elect another council.¹⁰¹ However, in cases where less than six months remain for holding the general municipal elections, the minister of interior authorizes the muhafez or qaim maqam to undertake the work of the council during this period.¹⁰²

Disciplinary measures are taken against any indicated member or body by the disciplinary council which is composed of a judge, a civil servant from the ministry of interior, an employee from the civil service board and an inspector who acts in his capacity as the government's representative.¹⁰³ The meetings of the municipal disciplinary council are held on the demand of the muhafez pursuant to the recommendation of the qaim maqam or whenever a request is submitted

⁹⁹ Ibid.

¹⁰⁰ Ibid., art. 80, p. 2145.

¹⁰¹ Ibid., art. 82, p. 2145.

¹⁰² Ibid.

¹⁰³ Ibid., art. 87, p. 2146.

by the central inspection board.¹⁰⁴ The disciplinary punishments which are inflicted involve a warning, a reprimand, suspension from office for one year or dismissal.¹⁰⁵

Powers of the Council: The decisions passed by the council in several important matters require further sanctions before they become operative. Thus, the resolutions having executory character only after approval from the central authorities may be divided into three categories:

- (a) Those subject to the approval of the qaim maqam.
- (b) Those subject to the approval of the muhafez, and
- (c) Those subject to the approval of the minister of interior.

If the qaim maqam, muhafez or minister of interior within fifteen days of having received a copy of the council's decision, have not formally indicated their approval or disapproval, the mayor inquires through a written request about the reasons for delay. If ten days have passed after receiving the report of the mayor and no answer is given, the decision is considered executory.¹⁰⁶ However, the muhafez or minister of interior are entitled to suspend any resolution of the council for security reasons although it has been approved previously.¹⁰⁷ But this does not preclude the fact that

¹⁰⁴ Ibid., art. 88, p. 2146.

¹⁰⁵ Ibid., art. 89, p. 2146.

¹⁰⁶ Ibid., art. 72, p. 2144.

¹⁰⁷ Ibid.

all the decisions of the muhafez or minister of interior are con-
tested in the council of state.¹⁰⁸

(a) The decisions that require ratification by the qaim maqam, or muhafez when the latter acts in his capacity as the qaim maqam of the central qada, are:¹⁰⁹

1. The municipal budget
2. The municipal rates
3. The acquisition of immovable property when the total cost does not exceed L.L. 20,000
4. Rent contracts whose annual returns do not exceed L.L. 2,000.
5. The insurance of municipal buildings.
6. The acceptance or refusal of gifts and donations which do not put the municipality under any obligation whatsoever.
7. Financial aid to the poor and destitute.
8. The fixing of tariffs for transportation by cars, vehicles and animals.
9. Public works when the total cost does not exceed L.L. 10,000.
10. Financial assistance to the social, educational, technical and athletic clubs or societies.
11. Collection of municipal taxes and fees.
12. All acquisitions which do not fall within the jurisdiction of the muhafez or minister of interior.

¹⁰⁸Ibid., art. 73, p. 2144.

¹⁰⁹Ibid., art. 67, p. 2143.

13. Works executed without prior agreement provided the total amount does not exceed L.L. 1,000.

(b) The decisions that require the approval of the muhafez are:¹¹⁰

1. Public works when the total cost ranges between L.L. 10,000 and L.L. 50,000.
2. The acquisition of immovable property when the total cost ranges between L.L. 20,000 and L.L. 50,000.
3. The sale of municipal property when the total price is less than L.L. 25,000.
4. Settling of conflicts and disputes.
5. The acceptance or refusal of gifts and donations bearing any charge or conditions or with power of reclamation.
6. The utilization of municipal property for specific purposes.
7. Rent contracts whose annual returns exceed L.L. 2,000.
8. Works executed without prior agreement when the total amount is below L.L. 2,000.
9. All matters relating to municipal public services, e.g. night watchmen, fire-brigades, public health, municipal police, hospitals, schools, public transportation, central market places, grave yards, theaters, cinema houses, sewage systems, water supply and electricity.

¹¹⁰Ibid., art. 68, pp. 2143-2144. Also, The Official Gazette, No. 51, (December 15, 1954), op.cit., art. 66, p. 886.

(c) Decisions that need the approval of the minister of interior¹¹¹ and which are usually taken on the recommendation of the muhafez are:¹¹²

1. Decisions that constitute permanent regulations, e.g. personnel regulations.
2. Extraordinary expenses and loans.
3. Public works when the total cost is beyond L.L. 50,000.
4. The sale of municipal property when the total price exceeds L.L. 25,000.
5. Works without prior agreement when the total amount is beyond L.L. 2,000.
6. Construction, demolition or repair of streets, public squares, parks and gardens.
7. Any change in the condition or status of public roads, highways and race courses.
8. The establishment of inter-communal syndicates in order to provide common services of public benefit.

In case the municipal council refuses or neglects to undertake any action incumbent upon it in accordance with the laws and regulations, the qaim maqam after getting the consent of the muhafez can make the orders himself after having warned the mayor that he would assume his powers unless he acted promptly.

¹¹¹ Ibid., art. 69, p. 2144.

¹¹² Interview with Mr. Fawzi Al-Bardawil, Muhafez of Mount Lebanon, July 9, 1963.

¹¹³ The Official Gazette, Annex to No. 42, (May 29, 1963) op.cit., art. 75, p. 2144.

Furthermore, all the powers granted to the muhafez in respect to the municipalities of the chief towns of the muhafazas are exercised by the minister of interior in accordance with the provisions of article 115 of the 1963 municipal law.¹¹⁴ Thus, the decisions passed by the municipal councils of Tripoli, Beirut, Saïda, Zahla and Ba'abda require the approval of the minister of interior and not the muhafez in order to become operative.

Judicial Action: No municipality enjoys the right to institute action in court without the authorization of the qaim maqam or the muhafez when the latter acts as the qaim maqam of the central qada of the muhafaza. The authorization of the muhafez or qaim maqam is, however, granted only whenever there is a public benefit accruing to the concerned municipality. Moreover, the muhafez or qaim maqam is required to render a decision in the matter within one month following which the municipality proceeds on its own.¹¹⁵

Furthermore, no municipality can be sued except when the claimant has presented a notification to the muharez explaining the reasons for his request. However, judicial action is not to be initiated until one month after the date of the receipt of the notification. In addition, the presentation of the notification inter-

¹¹⁴Ibid., art. 115, p. 2148. The minister of interior exercises the tutelage powers of the muhafez over the municipal councils of Tripoli, Beirut, Saïda, Zahla and Ba'abda. However, certain limited functions enumerated in articles 22, 37, 42 and 48 are still exercised by the muhafez and not the minister of interior in respect to the chief towns of the central qadas. For further reference, see pages 187, 188 and 190 of this chapter.

¹¹⁵Ibid., art. 76, p. 2145.

rupts any prescription or forfeiture if it is followed by action in court within a period of three months. The muhafez, on his part, is required to send the notification to the mayor with a request that the council be convoked for deliberation thereon.¹¹⁶

Municipal Personnel Regulations: The law provided that standard personnel regulations for the municipalities ought to be prepared within two months from the date of its issuing. However, in case the municipality neglects to perform such duty, the muhafez is allowed to prepare the personnel regulations for them.¹¹⁷ Moreover, the appointment and dismissal of employees is subject to the approval of the muhafez unless there is a stipulation to the contrary in the internal rules of a municipality.¹¹⁸

Municipal Syndicates: A municipal syndicate is formed when two or more municipalities agree to associate together to provide a particular service,¹¹⁹ which involves ordinarily a large outlay.¹²⁰ This agreement is drawn up by the respective municipalities and is then submitted to the muhafez who refers it to the minister of interior.¹²¹ The latter on the basis of the recommendation offered

¹¹⁶ Ibid., art. 77, p. 2145.

¹¹⁷ Ibid., art. 94, p. 2147.

¹¹⁸ Ibid., art. 96, p. 2147.

¹¹⁹ Ibid., art. 97, p. 2147.

¹²⁰ Interview with Mr. Fawzi Al-Bardawil, Muhafez of Mount Lebanon, July 9, 1963.

¹²¹ The Official Gazette, Annex to No. 42, (May 29, 1963), op.cit., art. 97, p. 2147.

by the muhafez decides whether or not the permission shall be given to proceed.¹²² Municipalities outside the muhafaza are admitted to the syndicate provided that the muhafez, where the location of the syndicate is, exercises powers of tutelage over its actions in accordance with the laws.¹²³

Once formed, the syndicate acquires the status of a corporate personality with its own budget and it can sue or be sued in its own name after getting the permission from the muhafez.¹²⁴ The general direction of the syndicate's affairs is handled by an administrative committee composed of three members chosen from among the municipalities comprising it.¹²⁵

The decisions of the syndicate which are subject to the confirmation of the muhafez are:¹²⁶

1. The syndicate's budget.
2. The syndicate rates.
3. The acquisition of immovable property when the total cost does not exceed L.L. 20,000.
4. Rent contracts whose annual returns do not exceed LL 2,000.
5. Insurance of public buildings.
6. The acceptance or refusal of gifts and legacies which do not put the syndicate under any obligation whatsoever.

¹²² Interview with Mr. Fawzi Bardawil, Muhafez of Mount Lebanon, July 9, 1963.

¹²³ The Official Gazette, Annex to No. 42, (May 29, 1963), op.cit., art. 102, p. 2147.

¹²⁴ Ibid., art. 76, 77, 102, pp. 2145-2147.

¹²⁵ Ibid., art. 99, p. 2147.

¹²⁶ Ibid., art. 67 and 103, p. 2143 and 2148.

7. Financial aid to the poor and destitute.
8. Determination of fees to be charged for the use of public cars and wagons.
9. Public works when the total cost do not exceed L.L. 10,000.
10. Collection of taxes and fees.
11. Financial aid to the social, educational, technical and athletic clubs or societies.
12. All other questions which do not fall within the jurisdiction of the minister of interior.

The Operational Procedure of the Budget

The municipal council studies during October of every year the municipal budget which is prepared by the mayor. It is then referred to the qaim maqam or muhafez when the latter acts as the qaim maqam of the central qada of the muhafaza for final approval.¹²⁷ The qaim maqam or muhafez may cancel or amend any provisions of the funds when he deems that the welfare of the municipality required that.¹²⁸ However, if the budget is not passed by the municipal council before the end of December, then it is submitted as prepared by the mayor to the muhafez for approval.¹²⁹ Thus, if the municipal council is determined to throw on the administration the burden of issuing the budget entirely on its own authority, the new budget can

¹²⁷ Ibid., art. 43 and 67, p. 2140 and 2143.

¹²⁸ The Official Gazette, No. 51, (December 15, 1954), op.cit., art. 109, p. 899.

¹²⁹ The Official Gazette, Annex to No. 42, (May 29, 1963), op.cit., art. 43, p. 2140.

be issued only by the muhafez and never by the qaim maqam.

The budget contains an estimate of revenue and expenditure that is planned for the new fiscal year. The revenue consists of all taxes, fines, charges, rents and any other source of income that is not set down in the budget.¹³⁰ The expenditures of the municipality are two-fold: obligatory and optional. The muhafez or qaim maqam should see to it that appropriations necessary to cover all obligatory expenditure are included in the budget. These expenditures comprise the following:¹³¹

1. Expenses for the maintenance or rent of the municipal building.
2. The payment of municipal debts.
3. Expenses for municipal administration.
4. The disbursement of salaries to municipal officials.
5. The expenditure needed for maintenance, lighting and cleaning of streets.
6. Subscriptions to the Official Gazette.
7. All expenditure to which the municipality is obligated by law to pay.

All the other expenses on the other hand are considered optional.¹³²

¹³⁰ The Official Gazette, No. 51, (December 15, 1954), op.cit., art. 110, p. 899.

¹³¹ Ibid., art. 111, p. 899.

¹³² Ibid.

In exceptional cases, a municipality may find it necessary to submit a supplementary budget. This budget is submitted to the muhafez or qaim maqam for final approval.¹³³ When necessary, the municipal council can during the year make transfers between the item-heads of expenditure provided that the transfer is not contrary to the regulations of the municipality, the amount transferred does not exceed the approved expenditures and that the transfer is approved by the muhafez or qaim maqam.¹³⁴

The Muhafez of Beirut: The muhafez of Beirut has a special status because he acts as the executive authority of the municipality¹³⁵ contrary to the practices prevalent in other parts of Lebanon where the mayor assumes that function. Thus, the municipal authority is represented by an executive power (the muhafez) and an advisory power (the municipal council).¹³⁶ The decisions of the council are of two kinds: those that are to be confirmed by the minister of interior and those that are valid without that confirmation.¹³⁷ The executive power implements its decisions in conformity with the laws. In this connection the muhafez undertakes the following responsibilities:¹³⁸

¹³³ Ibid., art. 119, p. 900.

¹³⁴ Ibid., art. 120, p. 901.

¹³⁵ The Official Gazette, Annex to No. 42 (May 29, 1963), op.cit., art. 113, p. 2148.

¹³⁶ Halim Said Abou Izzeddin (ed.) Lebanon and Its Provinces, (Beirut, Khayats, 1963), p. 101.

¹³⁷ Ibid.

¹³⁸ The Official Gazette, Annex to No. 42, (May 29, 1963), op.cit., art. 92 and 113, pp. 2146 and 2148. Also: The Official Gazette, No. 51 (December 15, 1954), op.cit., art. 80, pp. 889-891.

1. Executes the decisions of the municipal council.
2. Directs and supervises the municipal departments.
3. Administers and supervises municipal finances and immovable properties.
4. Controls the revenues, expenditures and accounts of the municipality.
5. Orders the payment of vouchers.
6. Supervises all the works done on behalf of the municipality.
7. Represents the municipality in courts when a case is lodged for or against it.
8. Undertakes the necessary measures against intoxication and the spread of contagious diseases.
9. Organizes and facilitates public traffic.
10. Regulates everything which affects free and undisturbed passage in the streets, roads, and public squares by removing obstructive building material and the demolition of dangerous buildings.
11. Arranges for funeral ceremonials and burials.
12. Allows the digging of canals for the purpose of building electric or sewage systems.
13. Prepares the municipal budget.
14. Signs all acts of sale, purchase, rent, exchange, apportionments, acceptance of gifts and donations or other acquisitions.
15. Secures food and clean water for the municipality and fixes the prices of food commodities.

16. Provides for the disposal of insane persons who may threaten public safety or morals.

17. Controls strayed or diseased animals.

18. Ensures precautionary and relief measures at times of public catastrophe as fires, floods, epidemics, etc.

19. Controls pauperism and begging in the streets.

20. Maintains peace and order.

21. Supervises the sanitary conditions of public buildings, hotels, public houses, cafes, restaurants, brothels, butcheries, groceries, barber-shops, bakeries, etc.

22. Inspects weights and measures and carries out the rules and regulations relating to the metric system.

23. Supervises fire-brigades and stores of oil and alcohol.

24. Directs the municipality to undertake the compulsory storage of inflammable substances and articles like wood, coal and charcoal.

25. Protects natural views and historical places and pays special attention for the promotion of trees, forests and parks.

In case the muharez of Beirut fails to execute the arretes of the municipal council within one month from the date he receives them, he is warned by the municipal council about his duty to carry it out. However, if he refuses to accept the warning within ten days, execution is entrusted to the mayor.¹³⁹

¹³⁹ The Official Gazette, Annex to No. 42, (May 29, 1963), op.cit. art. 114, p. 2148.

Certain functions which ordinarily fall on the muhafez or qaim maqam, in the case of Beirut are exercised directly by the minister of interior. Thus, the latter is required to approve all the decisions which are mentioned in articles 67 and 68 and those following of the municipal law of May 29, 1963.¹⁴⁰

The muhafez of Beirut executes his various functions through administrative departments and with the aid of a municipal committee. The departments are the departments of administrative affairs, the department of finance, the engineering department, the sanitary department to which is attached the department of classified establishments and the audit department.¹⁴¹

The department of administrative affairs includes the secretariat of the council, the personnel office, the administrative office of the settlement court, the municipal police, the guards and the fire brigade.¹⁴² The department of administrative affairs as its name infers, manages and directs the general affairs of the municipality. By its control over the municipal police it reserves the power of enforcement.¹⁴³

The department of finance comprises the section of accounts,

¹⁴⁰ Ibid., art. 113 and 115, p. 2148.

¹⁴¹ Abu-Izzeddin (ed.) op.cit., pp. 101-102.

¹⁴² The Official Gazette, No. 51, (December 15, 1954), op.cit., art. 85, p. 893.

¹⁴³ Ibid.

the expenditure section, the treasury section, the revenues section, the section of stores, the executionary section, and the property section.¹⁴⁴

The engineering department includes the technical section and the section of building licenses. Attached to it are the municipal workshops, the municipal garage and water sprinkling. The department looks after the cleanliness and beauty of the city. Moreover, it plans and executes all municipal projects relating to forests and parks.¹⁴⁵

The sanitary department executes municipal services relating to health. It controls and supervises unsanitary and dangerous places. Moreover, it is responsible for veterinary services, slaughter-houses and clinics.¹⁴⁶

Finally, the audit department inspects and audits the administrative and technical work of all the municipal departments pursuant to a warrant from the muhafez.¹⁴⁷

The heads of the departments are appointed by the minister of interior on the recommendation of the muhafez.¹⁴⁸

Along with the municipal departments there is a municipal committee which also helps the muhafez in the execution of his work. This committee is composed of the members of the office of the

¹⁴⁴ Ibid.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ Ibid., art. 86, p. 893.

municipal council (municipality office) and two other persons who are elected by the municipal council from its membership.¹⁴⁹ The committee meets once a week at the request of its chairman.¹⁵⁰

The municipal committee studies all matters connected with the administration of the municipality which are brought up by the muhafez or referred to it in accordance with the municipal regulations.¹⁵¹ Moreover, the committee gives its decisions on matters referred to it by the municipal council.¹⁵² During the periods between the regular sessions of the municipal council, the municipal committee assumes the duties of the council in case of emergencies.¹⁵³

The Changes Introduced by the 1963 Municipal Law

The significance of this law is that it increased the power of the muhafez in respect to dissolution of municipal councils and limited his authority in other important fields.

Decree No. 14982 dated February 15, 1957 simply stated that the municipal council was to be dissolved by decree in case it exceeded the limits of its powers, if it neglected the performance of duties incumbent upon it or whenever the majority of the members resigned.¹⁵⁴

¹⁴⁹ Ibid., art. 89, p. 894.

¹⁵⁰ Ibid., art. 94, p. 895.

¹⁵¹ Ibid., art. 91, p. 894.

¹⁵² Ibid.

¹⁵³ Ibid.

¹⁵⁴ The Official Gazette, No. 8, (February 20, 1957), op.cit., art. 2, p. 275.

However, the 1963 municipal law stated, in explicit terms the cases when a municipal body can be dismissed. Thus, the municipal council can be dissolved by the minister of interior on the recommendation of the muharez if it is unable to function, if it abuses its powers or when it neglects to perform certain duties legally incumbent on it or whenever it commits grave violations which cause harm to the municipality. However, before such measure is resorted to, the law requires the minister of interior to be sure about the allegations directed against the municipal body through written reports submitted to him by the muharez.¹⁵⁵ Furthermore, the municipal council is considered automatically dissolved pursuant to a decision taken by the muharez in cases of collective resignations, when the elections bringing it into power are considered illegal by the council of state, if the central inspection board demands its dismissal or when the collected revenues fall short of the appropriated revenues estimated for the financial year.¹⁵⁶

Furthermore, the powers of the muharez that were practised by the minister of interior included his right to make any changes in the use of municipal property already utilized in the public service for specific purposes.¹⁵⁷ This function was attributed to the minister

¹⁵⁵The Official Gazette, Annex to No. 42, (May 29, 1963), op.cit., art. 81, p. 2145.

¹⁵⁶Ibid., art. 80, p. 2145.

¹⁵⁷Ibid., art. 68, pp. 2143.

of interior under the 1954 law.¹⁵⁸

Moreover, legislative decree No. 5 dated December 10, 1954 empowered the municipalities to execute the following decisions after getting the approval of the muharez:¹⁵⁹

1. The acquisition of immovable property when the total cost including all other acquisitions voted in the same financial year exceeded one tenth of the ordinary revenues.

2. Projects, plans, and estimates for major reparations or maintenance, new construction or reconstruction in whole or in part when the total expenditures exceeded one tenth of the total appropriations approved in the budget for all works of that kind.

However, municipal law No. 29 of May 29, 1963, embodied a stipulation limiting the power of the muharez in respect to the acquisition of immovable property and public works. The provision defined the decisions that become executory after the consent of the muharez as:¹⁶⁰

1. The acquisition of immovable property when the total cost ranges between 20,000 L.L. and 50,000 L.L.

2. Public works when the total cost ranges between L.L. 10,000 and L.L. 50,000.

¹⁵⁸The Official Gazette, No. 51, (December 15, 1954), op.cit., art. 66, p. 886.

¹⁵⁹Ibid.

¹⁶⁰The Official Gazette, Annex to No. 42, (May 29, 1963), op.cit., art. 68, pp. 2143-2144.

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¹⁵⁸The Official Gazette, No. 51, (December 15, 1954), op.cit., art. 66, p. 886.

¹⁵⁹Ibid.

¹⁶⁰The Official Gazette, Annex to No. 42, (May 29, 1963), op.cit., art. 68, pp. 2143-2144.

Sums of money exceeding the amount of L.L. 50,000 requires the authorization of the minister of interior before they become operative.¹⁶¹

In addition, and as a measure towards deconcentration, the following functions which were previously exercised by the muhafez¹⁶² require now the approval of the qaim maqam. These are:¹⁶³

1. The municipal budget.
2. Municipal fees.

Finally, the 1963 municipal law went one step further, in limiting the powers of the muhafezin in relation to the municipalities of the chief towns of the muhafazas. Thus, all the powers granted to the municipalities of Beirut, Tripoli, Saïda, Zahla and Ba'abda require the approval of the minister of interior and not the muhafez in order to have executory character.¹⁶⁴ This function was entrusted, prior to 1963, to the muhafez in Tripoli, Saïda, Zahla and Ba'abda.

¹⁶¹Ibid., art. 69, p. 2144.

¹⁶²The Official Gazette, No. 51, (December 15, 1954), op.cit., art. 66, p. 886.

¹⁶³The Official Gazette, Annex to No. 42, (May 29, 1963), op.cit., art. 67, p. 2143.

¹⁶⁴Ibid., art. 115, p. 2148.

Chapter VI

THE INFORMAL ASPECT OF THE MUHAFEZ'S OFFICE

The muharez holds a unique position in Lebanese public life. He is the intermediary between the government and the administration, between the central authorities and the people. He is the administrator who is part politician and the politician who is first class administrator. He is the representative of the state in the region and the protector of the muharaza interests against the ministries. He is the executive instrument of the government and at the same time the promoter of policy in the muhafaza. His role is partly administrative and partly political. In brief, the muharez, who acts in his multifarious capacities as the vital link between the government and the people of the province, is the representative of central authority, the executor of policies and the recipient of popular demands.¹

The muharez, both in the part he plays in the formulation or elaboration of policy and the part he plays in actuating policy, is bound by conflicting political forces. This is equally true whether he acts himself or has to procure the actions of others. Thus, he has to play a double role. First, he is under constant pressure from the central authorities--as its representative and agent--to implement its directives. As the most important figure in his area, he is subject to ceaseless pressure from local leaders and parliamentary deputies of the region. He cannot completely disregard their demands which are very often contrary to the public interest.²

¹Halim Abu-Izzeddin (ed.), Lebanon and Its Provinces (Beirut: Khayats, 1963), p. XI.

²Ibid., pp. 64-65.

Considerations Affecting the Appointment of the Muhafez:

Political considerations affect the appointment of the muhafezin whenever there is a change in the political direction of the government. These considerations are found even when the country is enjoying political stability, when changes in the ministry are changes in political nuances. To take a simple example. One muhafez was removed from office in 1956 because the prime minister issued a decree, after convincing the government, appointing his brother to the post of the muhafez of the north. The brother of the then prime minister remained in the position until the head of the republic dismissed the premier and as a consequence reinstated the old muhafez to office.³

A second example throwing light on this point happened recently. In May 1963, one of the muhafezin was transferred to the foreign service. This was reportedly the wish of the Prime Minister Mr. Rachid Karami whose brother Ma'n could not have his own ways in the city without coming into conflict with the muhafez.⁴ Moreover, the fact that the ex-muhafez of the north encouraged and expedited the business of some families not politically loyal to the prime minister was partly responsible for transferring him from office.⁵

³Interview with the ex-Muhafez of the North, Mr. Husni Al-Houji, November 20, 1963.

⁴Raymond Nahhas, Structure and Behavior of Lebanese Bureaucracy, (Beirut: A.U.B., 1963), unpublished thesis, p. 193.

⁵The transfer of Mr. Munir Takeyiddin, the ex-Muhafez of the North to the foreign service was taken during Mr. Kamal Jumblat's tour to India. The measure was resorted to at that time because indications pointed out that the minister of interior took the side of the muhafez against the prime minister.

However, there are certain political factors which serve as a check on partisanship. Usually no muharez is appointed by the government if strong members of the cabinet oppose the nomination, and since virtually all Lebanese governments are coalitions, a veto on a person presents an automatic counter to gross favoritism. In addition to the acceptance of the strong members in the cabinet, it is customary to consult prominent political leaders when it involves the politician's own muhafaza. This is a normal courtesy which will be extended to strong zaims who are not at the moment in the government but whose influence can in no way be ignored. Thus, prominent politicians who are ready to veto the name of a person on the list of candidates might handicap his appointment. However, the final appointment depends on the interplay of forces within and outside the government at the time the nomination occurs and on the ability of one minister or the other to ignore objections and enlist the support of his colleagues.⁶

Muhafazin appointments are political in that they involve choice between men of intelligence and ambition, who are to exercise powers of control and initiative in matters important to the strong leaders. He himself is a political appointee who is recruited through choice and not through examination. In the performance of his functions, the muharez needs, besides a strong character, diplomacy, tact

⁶ Interview with the Acting Muharez of the North, Dr. Halim Abu Izzedin, December 19, 1963.

and caution.⁷ The outlook and capacities of these men are known and are taken into account when one man has to be preferred to another for a particular post. It is not certain who takes the initiative of putting forward the names of candidates for it may be the prime minister, the minister of interior or any one else.

The distribution of muhafezin posts in Lebanon, as is the case with the rest of government positions, is subject to what is known as the confessional system. The latter is simply a system of proportional representation by religious faith in government functions. The manifestation of sectarianism is apparent in the Lebanese constitution. Article 12 of the constitution states that all Lebanese citizens are to be equally admissible to public employment with no qualification required other than competence and merit.⁸ Article 95, however, effectively weakens this provision by declaring that as a temporary measure all the communities are to be equitably represented in public employment.⁹ Thus, although the provision of article 95 was retained on a temporary basis, yet it is still followed in filling the vacant positions in government including the post of a muhafez. The following table illustrates the distribution of the position of a muhafez among the sects over the years.

⁷ Nahhas, op.cit., p. 191.

⁸ Helen Miller Davis, Constitutions, Electoral Laws, and Treaties of States in the Near and Middle East, (Durham: Duke University Press, 1953), p. 293.

⁹ Ibid., p. 304.

TABLE VI-1

DISTRIBUTION OF THE MUHAFEZIN POSITIONS AMONG SECTS BY YEARS^a

	<u>Total</u>	<u>Maronites</u>	<u>Catholics</u>	<u>Orthodox</u>	<u>Sunni</u>	<u>Druze</u>
1946	5	1	1	1	1	1
1955	5	3	-	-	1	1
1963 ^b	5	1	1	1	1	1

^aHalim Fayyad, The Effects of Sectarianism on Lebanese Administration, (Beirut: A.U.B., 1956), unpublished thesis, p. 71.

^bLissan-ul-Hal (Beirut), January 17, 1964, p. 4.

The positions of the muhafezin are distributed on a religious basis because the Lebanese authorities have always been aware of the need to follow the sectarian apportionment of the posts for reasons connected with the composition of the country. When the post becomes vacant an attempt is usually made to recruit an employee to the position who belongs to the sect to which the previous muhafez belonged. A recent example illustrating this aspect was the replacement of Mr. Munir Takeyiddin, a Druze and the ex-muhafez of the north by Dr. Halim Abu Izzeddin who is a member of the same sect.

Political influences and sectarian considerations affecting the choice of the muhafez, however, should not be viewed as separate forces. On the contrary, they are two factors equally effective whenever the vacant position of the muhafez is to be filled. This is so for two reasons: First, there is the fact that politics itself is,

to a great extent, shaped by sectarian considerations. Second, sectarian influences are counter-balanced by the interference exercised on the part of politicians who may or may not belong to the same sect. Thus, the deep concern in the muhafez's post and the interference manifested in such matter explain why it is often difficult and complicated to make any reshuffle without taking into account political as well as religious impacts. Thus, if the supporter of a particular political leader is nominated to the post of a muhafez, this is met with objections on the part of other political leaders of the same sect or different sects who want to bring one of their followers to the office.

The following case illustrates all the ideas just mentioned:¹⁰

The Lebanese cabinet discussed recently the request made by Dr. Halim Abu Izzeddin that he be removed from his duties as acting governor of North Lebanon in order that he may give more time to his duties at the ministry of foreign affairs. The cabinet accepted the transfer request of the muhafez and reviewed the names of a number of candidates for the post. President Fouad Chehab, who had at the beginning, refused plans to appoint a new acting governor soon accepted on condition that the post be held by a Druze. The suggestion is understood to have delayed a final decision by the cabinet. Meanwhile, informed sources said that the issue was getting all the more complicated by the demands imposed by the Minister of Interior Mr.

¹⁰The Daily Star (Beirut), September 8, 1963, p. 2.

Kamal Jumblat who was reportedly insisting that one of the candidates he was presenting for the post be appointed. Jumblat's request was, however, meeting with stiff competition from the other ministers and Prime Minister Rachid Karami in particular. The prime minister, it was reported stood vehemently against any candidate which the minister of interior might present. On the other hand sources close to Jumblat said that the minister of interior would refuse to sign any decree appointing a candidate other than his own as governor.

The issue reached this stage and the muhafez Abu Izzeddin remained till this moment as governor of the North because of the difficulty of finding a Druze accepted by the Druze leaders and at the same time by political leaders from other sects.

One can then conclude that the ideal for a muhafez is to be admired as a personality by the ministers of the different sects, to be known to his colleagues as an administrator of high quality, to have the favor of several parliamentarians and politicians of different outlook, yet to be tied to no one group or personality.¹¹

Government Influence on the Muhafez

After the appointment of the muhafez the first and most important influence he is exposed to is the government and this must be understood to mean the cabinet as a whole and the individual ministers as well. The government can always insist upon a muhafez

¹¹ Interview with the Acting-Muhafez of the North, Dr. Halim Abu-Izzeddin, December 19, 1963.

strictly following a specified policy. It can tell him that under no circumstances is he to approve any more applications for permission to get loans and then he has no choice. He is also expected to conform to a general line of policy even though the initiative remains with him. If the minister of interior tells him to take all the necessary precautions for keeping security and order during elections he must exercise all his abilities to avoid any trouble which might jeopardise the government's position. Thus, he is expected to inform the government as accurately and objectively as possible of the situation in his muhafaza, and to keep things in order.¹²

One must not of course have the impression that the muhafezin are always subject to forces beyond their power to handle or cope with. Governments have a habit of changing quickly and hence the muhafezin are strengthened by the instability of ministries. They are left with a lot of things to accomplish, for maintaining internal stability and for promoting internal welfare more than many national representatives.

Influence of Politicians on the Muhafez

The politicians interference in Lebanese administration form the second source of influence upon the muhafez. The important factor in the relations between the muhafez and parliamentarians or local

¹² Interview with the Muhafez of the South, Mr. Ghalib El-Turk, January 9, 1964.

politicians is that the ministers obtain much of their information about the conditions of the muhafaza through reports submitted to them by the muharezin and as a result much of priorities in the accomplishment of projects important to political leaders is dependent on the muhafez's point of view as conveyed in the suggestions he usually submits to the central authorities.¹³ The politician, then views the muhafez with the eyes of a member of a religious or political group which possesses a special outlook and has certain vested interests that he likes to carry out. They not only see the muhafez as an administrator, but as a local significant force. He is an important, though exaggerated, element in their livelihood, which is punctuated at the intervals of new elections whether municipal or national. And success in politics depends to a great extent upon having a firmly established local base, with a hard core of political friends and supporters. This often means taking an active part in local politics at the municipal or national levels. The politician is continually up for re-election in one political arena or another and the result of a council's elections often has considerable, though not decisive, effects upon the position of a deputy in parliament. He is then by force of circumstances keenly interested in every thing the muhafez does which may affect the electorate. The exercise of administrative power by the muhafez is not concealed by the anonymity of the bureaucrat. Politicians are sensitive to what is going on.

¹³Ibid.

Politicians and parliamentarians have their friends who may include the mayors of important or big municipalities, the leaders of organized or unorganized pressure groups, and prominent families. These supporters play a dominant role in the strength of a politician since they can swing blocs of votes. The politician is hence interested in their fate; if a favorite project is discarded, if they appear to the public to lose their influence, their decline may carry the politicians with them. If they become annoyed at the politician's shortcomings they might vote against him at the next elections. Politicians know that the muhafez is very useful in expediting business. The word of the muhafez can bring the application for compensation due to natural calamities or the request for a building license out from its resting place. Thus, successful intervention by a politician at the muhafaza will enhance his prestige and increase his popularity.

The deputy may want the muhafez's help in important matters as in cases of road construction, electric and water supply to villages devoid of them or getting a loan from government for a municipality. These matters can be expedited by the muhafez while they remain in his file, and their future fate may depend on the report he forwards to the concerned ministry. If they are blocked there, the muhafez may be able to expedite affairs in Beirut too.

Deputies, however, who may try to involve the muhafez in illegal matters are not always successful in their attempts. Some muhafezin have been able to defy or prevent not only deputies but

even ministers from interfering in administrative affairs when such interference jeopardised the policy of the government or caused harm to the public interest. The pressure is often met with a bold stand which make politicians know well enough that these muhafezin are not afraid of them because they have the confidence of the government.

Central-Field Relationships

Nowadays, the muhafez calculates rather than directs electoral results. But it must be remembered that the muhafezin are in a highly strategic position at election times. They more than any one else are likely to be aware of the programs, platforms and secret intentions of the various candidates. Odd conversations with political leaders and the information they receive from the qaim maqams provide them with a picture of the electoral battlefield and campaign which is often accurate.¹⁴ However, no evidence has been produced to show that a muhafez encourages or threatens electors to vote in one way rather than the other. They may indicate in private discussions their or the government's preference but nobody has any proof that even the allegation is based on facts.

The minister of interior relies upon the shrewdness of the muhafezin during elections. Circulars and questionnaires are sent from Beirut requiring information about the mood of the electorate and analysis of past electoral behavior. Statistics are compiled in

¹⁴Ibid.

the ministry and elections timed according to prognostications.¹⁵

The muhafezin are convoked to Beirut for rendering of opinions. Thus, there is a tradition that all the muhafezin and the minister of interior should meet on the eve of an election when electoral strategy is laid down.¹⁶

The minister of interior may instruct the muhafez to take firm action at the first sign of unrest provoked for political motives. Obviously the muhafez must find out where to look for potential trouble and persons most capable of provoking disturbances. He must then formulate counter-measures and lay down a plan of action which can be put into operation smoothly and efficiently when the occasion demands. This process is conducted in secrecy because of the political troubles which might attend the premature publication of the minister's policy.¹⁷

The relationships between the muhafez and the central administration are highly concentrated. The muhafez goes back to the minister of interior for direction in the discharge of duties and responsibilities which fall outside the sphere of his competence. He also contacts the central authorities for guidance and instructions concerning important matters which are included within his jurisdiction. This is imperative in formulating decisions involving vital political questions which have much to do with the security

¹⁵ Interview with the Acting Muhafez of the North, Dr. Halim Abu Izzeddin, December 19, 1963.

¹⁶ Ibid.

¹⁷ Ibid.

of the state. Moreover, even functions other than the political are actually referred to the centre for approval. Thus, for instance although the muhafez is required to take the necessary measures for safeguarding public health, practical considerations such as the need to authorize enough money for expenditures on the erection of a hospital obliges him to contact the ministry of public health which has the final word in the matter. Furthermore, the lack of the sufficient budgetary appropriations for the execution of public work projects such as the erection of roads necessitates the reference of the decision to the ministry of public works for final approval. This leads one to conclude that the muhafez is not really free in the exercise of functions legally entrusted to him because the implementation cannot be put into effect without the consent of the concerned authorities at Beirut.¹⁸

The central authorities are, however, free at any time to refuse the suggestions of the muhafez. An example would cast light on this point. A certain muhafez whose responsibility was to take care of the necessary precautions for the prevention of the spread of diseases presented a project in that connection to the president of the republic in 1951. In his capacity to take care of public hygiene in the muhafaza he proposed a plan for a sewage system which would connect the qadas of Mount Lebanon together within one overall comprehensive scheme. Finding that the construction of a sewage system

¹⁸ Ibid.

could affect the future of the expanding muhafaza favorably, he recommended to the president the adoption of the decision. The president of the republic after studying the proposal in the light of the information supplied found out that the amount of money needed to finance the proposed project reached no less than L.L. 100 million. The president, however, refused to accept the suggestion. The ex-muhafez of the mountain then explained that the project was rejected for "general and special reasons" he did not reveal.¹⁹

The following cases which the author had the opportunity to know about perhaps illustrate well enough how the interrelationships between the minister of interior and muhafezin are shaped by many considerations such as the political strength of the muhafez, the personalities of both the muhafez and minister of interior, the relations between them and the relations between each one and the central government.

Case A:

This case which was the result of the municipal elections of the north that were held in July 14, 1963, involved differences between the minister of interior, Mr. Kamal Jumblat, on the one hand and the muhafez of the north, Dr. Halim Abu Izzeddin on the other.

The causes of the difference between the minister of interior and the muhafez of the north were stated by the local news agency.

¹⁹Point IV was ready to share in the expenses needed for the completion of the sewage system. Interview with the ex-muhafez of the mountain and the north, Mr. Husni-El-Houji, November 20, 1963.

The agency said that the minister of interior was surprised to find out that the investigations carried out by the security forces had confirmed the happening of several incidents in the north and particularly in Tripoli where automatic weapons were used by the followers as well as by the opponents of Prime Minister Rachid Karami while roaming the streets openly. When Minister Jumblat got such information he considered that the governor of the north had neglected his duties and ignored the facts. The minister, the agency continued, was then obliged to address a reprimand to the muhafez and in addition ordered the deduction of 15 days pay from his salary as penalty for his report which stated that elections were carried out with complete tranquility. However, Mr. Chafic El-Khazen, Director-General of the Ministry of Interior, refused to approve the resolution implying the deduction of the 15 days pay from the governor's salary and noted down a contravention to the decision.²⁰

Resolution No. 757 issued on August 29, 1963, which called for the deduction of fifteen days pay from the salary of the muhafez was as follows:

The minister of interior in accordance with report No. 1015 dated 16/8/1963 which was put forth by the director-general of interior, pursuant to the minister's memorandum No. 4372 dated 8/8/1963 about the neglect and inadvertance attributed to the governor of Northern Lebanon during the municipal elections held in Tripoli on 14/7/1963, and whereas the contravention committed by the muhafez had direct relations with public security and order and whereas Legislative Decree No. 116 placed the responsibility for keeping security and order on the

²⁰ As-Safa (Beirut), August 27, 1963, p. 4.

governor, and whereas it appeared that law and order were violated in the city of Tripoli without taking any proper precautions to avoid such situation, and in accordance with the proposed recommendations on the part of the Director-General of Interior it was decided to deduct a 15 days pay from the salary of Mr. Halim Abu Izzeddin for the reasons stated in the resolution.²¹

The director-general, however, outlined his contravention as follows: "With my contravention, pursuant to report No. 1015 dated 16/8/1963."²²

When the northern news agency asked the governor of the north about his opinion in the action taken against him by the minister of interior, the muharez replied that the slackness in the elections could be explained by others than himself. He continued that the minister of interior could well acknowledge that he had requested before the elections the sending of a commission from the central inspection board to supervise the elections at Tripoli and to cooperate with him in receiving the complaints and carrying out all the necessary measures required for the elections. The muharez, moreover, noted that he had asked the minister to send the head of the general gendarmerie forces to Tripoli in order to supervise the conditions of security but that nothing was accomplished in either case.²³

The crisis between the minister of interior and the governor of the north was discussed in the cabinet. Foreign Minister Philip Takla opening the discussion on the matter, strongly endorsed the request of Dr. Izzeddin that he be relieved of his duties in the

²¹ Al-Hayat (Beirut), August 30, 1963, p. 4.

²² Ibid.

²³ Al-Nahar (Beirut), September 4, 1963, p. 2.

governorate of the north. Meanwhile, Prime Minister Rachid Karami strongly backed Dr. Abu Izzeddin, saying that during his tenure of office, Tripoli and northern Lebanon experienced the best conducted and supervised elections. The prime minister was replying to accusations by the minister of interior that Izzeddin did not fulfil his duties during the municipal elections in northern Lebanon. During the discussion, President Chehab said that while he did not argue the principle of the fine on the muhafez, he saw that the minister of interior should have limited his step to a mere letter of reprimand to Izzeddin whose record so far showed good service.²⁴

The minister of interior soon put an end to the crisis by issuing a resolution implying the annulment of the penalty imposed on Dr. Abu Izzeddin who is still the muhafez of the north.²⁵

Case B:

The minister of interior dispute with the governor of Beirut started by the allegation that one of the Dana family had undertaken the building of a playground on the land belonging to Jalloul. The investigations conducted revealed that the owners of the club of the Dana family had obtained a permit to this effect from the governor who did not ascertain to whom the land belonged. The minister of interior considered that way of dealing as a trans-

²⁴The Daily Star (Beirut), September 5, 1963, p. 2.

²⁵Al-Hayat (Beirut), November 14, 1963.

gression of the law and was compelled to adopt legal measures against the muhafez.²⁶ Moreover, the police with the aid of three shovel tractors demolished the club including the playground pursuant to orders issued by the minister of interior.²⁷

Case C:

The minister of interior got news of the endeavors undertaken by the muhafez of the north to waive the misunderstanding between the members of the Halba municipal council after the crisis had taken sectarian directions. The differences led 6 members belonging to the Moslem community to resign while the other 6 belonging to the Christian community insisted on remaining in office in spite of the resignation of half the members of the council.²⁸

At that point, the minister of interior began questioning the increasing interest displayed by some ministers in the affairs of the municipal council of Halba and the instructions received by the governor from certain responsible authorities without his knowledge.²⁹

²⁶ As-Safa (Beirut), August 27, 1963, p. 4.

²⁷ The muhafez himself, however, issued a communique denying what was published by the National News Agency about the alleged dispute between him and the minister of interior. He indicated that no legal permit was granted by him for building a playground in the locality of Tarik-al-Jadida. He clarified that the fence stone erected on the property of a third party was a sort of transgression and hence he is in agreement with the minister of interior who ordered waiving it off. Lissan-ul-Hal (Beirut), August 29, 1963.

²⁸ Al-Muharir (Beirut); October 28, 1963, p. 2.

²⁹ Ibid.

The minister of interior, after feeling the intervention in the affairs of his ministry, was resolved to put an end to it. He, therefore, addressed a letter to the qaim maqam of Akkar asking him to call the municipal council of Halba for a meeting in order to elect a chairman from amongst the remaining members.³⁰

The qaim maqam found himself in a critical situation and contacted the governor to inform him about the instructions he received from the minister. The governor in turn referred the news he got from the qaim maqam to the prime minister and consulted him about the stand he should adopt after the minister's insistence on enacting his orders.³¹

The prime minister's reply to the governor was to leave the affairs of the municipality of Halba as they were and agreed with him on a solution to the crisis.

At that point indications within the ministry of interior had shown that the minister refused to accept the intervention of certain responsible authorities in matters falling within his jurisdiction.³²

A little later the crisis was solved after the minister's agreement to leave the handling of the question to the muhafez.³³ The retreat of the minister from his original point of view meant

³⁰Ibid.

³¹Ibid.

³²Ibid.

³³Interview with the Acting Muhefez of the North, Dr. Halim Abu Izzedin, December 19, 1963.

the triumph of the muhafez.

The Muhafez's Socio-Economic Powers

There has been the tendency for the principal local agents of central power to stress what might be called their police role which is mainly involved in maintaining security and order. They have been at one time the enforcers of law and order, the leviers of money and the protectors of settled life. Although the muhafez is the general purpose-agent of the government in its entirety and serves as channel through which communication passes between all the individual ministries and their local officials, and as the chairman of co-ordinated boards composed of various specialists, it is only gradually and here and there that they have been encouraged to act-- as they do increasingly in present day Lebanon--as promoters, planners, and co-ordinators of economic and social development.³⁴

Thus, the muhafaza became more than ever the focal point of local affairs, staffs increased and offices multiplied. This process was accentuated by the expansion of the local offices of the central ministries. For example, the ministry of economics created a new department to control the application of laws concerning economic services. These new services are rapidly establishing their own units of local administration with the muhafaza as the basic area,

³⁴Ibid.

and their offices came under the muhafez who in his capacity as the representative of all the ministries has assumed supremacy over all the state officials in the region.

Thus, one can state that since the assumption of the presidency by General Fouad Chehab in 1958 a policy of deconcentration was pursued. As a result of the devolution of power, the role of the muhafez, not only became more important but also his association with the region became more intimate.³⁵

On the actual side, one must be aware of practical problems which limit the effectiveness of functions legally entrusted to the muhafez. According to the law, the muhafez is required to take the necessary measures for the application of health rules as well as for safeguarding of public health. In this connection, he is responsible for sending needy patients to government hospitals in the muhafaza. In case where no government hospitals exist in the muhafaza, the muhafez recommends the sending of the poor patients either to the nearest hospital to the region or to any other private hospital on the expense of government.³⁶ Practically, some areas, however, do not have enough health facilities to enable the muhafez to perform his health functions appropriately. For example, in the whole muhafaza of the south there are no government hospitals to which the

³⁵ Abu Izzeddin (ed.), op.cit., p. XI.

³⁶ The Official Gazette, No. 29, (June 20, 1959), Legislative Decree No. 116 dated June 12, 1959, art. 18, and 19, p. 602.

needy can resort, except one in Sidon which is insufficiently equipped with doctors working under contract, and Marjeyoun Hermon Hospital, built by emigrants as a token of loyalty to their birth place.³⁷ Moreover, the sending of sick patients in rural areas to the nearest hospital to the region or to any other private hospital on the expense of government would not help people too much. Thus, it is very difficult for a married man to take his sick wife or son on the back of an animal over rough tracks, seeking the chief town of the central qada in order to have medical treatment.³⁸

Not all the muhafazas, however, undergo identical or similar problems. For example, the basic characteristics of the muhafaza of Beirut involve a growing metropolis, a leading port, and a vital cultural and commercial centre in the Arab world. Its continuous expansion, its traffic, its housing and sanitation problems together with the inevitable congestion which is the result of increase in population, leads to putting its administrative and economic problems in a separate category.³⁹ On the other hand, the muhafazas of the north, south, and Biqa have their own particular features, and their own special set of problems to face. These areas are not on an even level with the rest of Lebanese economic and social life. They are badly in need for government hospitals and social activities which

³⁷ Abu Izzeddin (ed.), op.cit., p. 59.

³⁸ Ibid.

³⁹ Ibid., p. XI.

include such basic services as medical care, education, opening of roads, electric and water supply, telephone networks, agricultural schemes and social programs.⁴⁰ This picture which is dark in certain aspects would reflect itself in incessant demands made by the people on the administration.⁴¹

The difference between one muhafaza and the other does not preclude the fact that they may have many features and problems in common. Hence it becomes the task of the muhafez to integrate the particular problems with the general problems.⁴² Such course of action requires the state to depend on a high calibre of personnel to undertake the tasks of administration and of imaginative implementation of policy. This urging need explains the present relationship of the centre with the provinces and the programs envisaged for vesting the regional and municipal authorities with local initiative and civic responsibility.⁴³

The Muhafez and Regional Offices

The ministerial offices are managed by the central government

⁴⁰Ibid., pp. XI, 8-11, 43, and 58-60.

⁴¹Citizens in the muhafaza of the south, for example claim a share in the special projects aimed at the development of Lebanon. They ask the administration for the completion of the highway from Marj-eyoun to Damascus, Amman and Baghdad which would shorten the distance and facilitate the export of their produce. They, moreover, ask for suitable school buildings which will fulfill the minimum health conditions necessary for children. They call for decentralization and the reduction of wearisome and time consuming formalities. Ibid., p. 64.

⁴²Ibid., p. XII.

⁴³Ibid.

under the direct supervision of the muhafez. A reference was made in this connection in Chapter Three. However, this is on the theoretical level, and if one examines the situation in the practical side he will find that in many instances the actual situation is different. The muhafez on his part does not usually interfere in the work of the regional departments except to require their help when he is in need of it. For example, he may demand the help of the agricultural service in case of plant and animal diseases or he may call the department of education to undertake the compilation of data about the condition of public or private schools in the muhafaza. He does not normally interfere in the minute detail of their business because the major duties and responsibilities occupy the greater portion of his time.⁴⁴

Moreover, each muhafaza officer must legally receive instructions from its corresponding ministry through the muhafez. This is not usually what occurs for a good deal of communication is transmitted directly by the offices to the concerned central ministry without going back to the muhafez. This situation prevails occasionally with the consent of the muhafez himself.⁴⁵ This does not mean that the muhafez issues no directions to the offices located in his region in matters relating to the execution of laws and administrative regulations for which he is responsible. But one often finds that in case of conflict between the muhafez and the head of any ministerial de-

⁴⁴ Interview with the Acting Muhafez of the North, Dr. Halim Abu Izzeddin, December 19, 1963.

⁴⁵ Ibid.

partment in the muhafaza, the official will stick to the orders received from the ministry to which he belongs. The execution of the decision is delayed until the muhafez and the minister concerned meet to settle the question. However, the muhafez who fails to convince the minister to change his mind can register his objections to a decision which he disapproves.⁴⁶

The Muhafez and the Qaim-maqams

The relations between the muhafez and qaim maqam are difficult to assess because they are usually informal. But the muhafez has a formal authority over all the qaim maqams and it is his duty to make annual confidential reports on his subordinates to the minister of interior. The muhafez embodies in the report his comments upon the qaim maqam's intelligence, powers of decision, his personal authority and influence over other men, his morality and the main traits of his personality. The muhafez is required to give information about the qaim maqam's political attitude, nothing any relevant political history and indicating his present orientation. Finally, the muhafez assesses the professional value of his subordinate, his administrative competence, his dynamism and ability to act and his method of work.⁴⁷

The qaim maqam will normally meet his muhafez within a short time of his arrival; he will learn the muhafez's general policy and

⁴⁶ Ibid.

⁴⁷ Ibid.

the situations in which he is to obtain the muharez's prior consent to action. The muharez will also discuss local personalities and political influences in the muharaza and advises him of particular traps and dangers.⁴⁸

The muharez remains inescapably responsible for the good order of the entire muharaza. The qaim maqam is his subordinate subject to mandatory orders. No qaim maqam would take upon himself without prior consultation with the muharez responsibility for any action which might provoke political or social difficulties, for the muharez will have to solve them if they come to a head. A shrewd qaim maqam, however, may be almost given carte blanche by the muharez, and then he is free to act on his own initiative, sure that the muharez will support him. But if the qaim maqam is new, the muharez may lay down a determined line of conduct, leaving the qaim maqam the initiative to fill in the gaps, or he may even take the matter in hand personally.⁴⁹

In every day life close contact is maintained between the muharez and qaim maqams. Meetings are held in the muharaza under the chairmanship of the muharez at which problems of common interest are discussed; the problem of security, a future program of public works and information about the work of the "equipe polyvalentes" in the qadas. Many meetings are held to hear progress reports about

⁴⁸Ibid.

⁴⁹Ibid.

work in hand, and periodic surveys are made of the political situation in the muhafaza. The qaim maqams may bring their own reports which the muhafez will use in drafting his report to the minister, or they may comment severally upon the way in which different factors affect their own areas.⁵⁰

Although the law provides that all reports, petitions and correspondence of the qaim maqam must be channelled through the muhafez before submitted to a higher authority and that all the ministries must contact the qaim maqam through the muhafez in all cases not involving technical questions, the practical situation differs. Thus some qaim maqams are able to contact the minister of interior or any other ministry directly or vice versa.⁵¹

The execution of the orders of the muhafez by the qaim maqams are often confronted by many obstacles and difficulties. Many of the qaim maqams complain of their limited authority. Since the minister of interior and the muhafez monopolize power, the qaim maqam is in many cases left with little discretion; for he mainly executes the orders he receives from the muhafez.⁵² Such condition, however, is not always true for the inter-relationships between the muhafez and qaim maqam are dependent on several factors among which are the personalities of both the muhafez and qaim maqam and the relations

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Interview with the ex-qaim maqam of Al-Batroun, August 27, 1963.

between each one and the central authorities.⁵³

Thus, one can generalize that practically the minister of interior and the central government hold in their grip a good deal of local administration. They control all the administrative regions of the country, for it is they who appoint and within certain limits dismiss the muhafezin and qaim maqams. The muhafez and qaim maqam are appointed by the central government and are responsible to the ministers and particularly to the minister of interior for the functions they exercise according to the laws. Whereas the muhafez is accountable directly to the minister of interior, the qaim maqam is accountable to him vis-a-vis the muhafez. The muhafez receives orders directly through the minister and the qaim maqam in turn is the recipient of instructions from the muhafez. Both execute the policy laid down for them by the central government and they are bound to submit or contact the authorities at Beirut over many important decisions which are not executory without their approval. Thus through the muhafez the control of the central government in general and the minister of interior in particular is ensured over the regions. As a result, the minister of interior, the muhafez and the qaim maqam form altogether and separately an important link in the centralized system that exists in Lebanon

The Muhafez and the Municipalities

The muhafez who possesses several tutelage powers usually

⁵³ Interview with the Acting Governor of the North, Dr. Halim Abu Izzeddin, December 19, 1963.

exercises them in accordance with the laws in force. Thus, many members of municipal councils were dismissed either because they were illiterate or failed to meet the required qualifications. Moreover many municipalities were dismissed because of differences among their members or due to their contravention of the laws.⁵⁴

Furthermore, the muhafez's control over the action of local authorities has proved to be successful in many respects. For example, the muhafez of the south who suspected the prevalence of contradictions in accounts and embezzlement in the municipality of Saida called the central inspection board to enquire and investigate about the matter. The financial inspection carried the necessary investigations during 1961 by looking over and examining the accounts of the municipality. It was found out that the allegations of the muhafez were true and as a result the accused employees were referred to the penal courts for trial.⁵⁵ The trial have shown recently that the employees were responsible for corruption and embezzlement.

The Administrative Problems of the Muhafez

The muhafez is considerably over-burdened with multifarious activities. A glance at the regional services, departments and

⁵⁴ Interview with the muhafez of the South, Mr. Ghalib El-Turk, January 9, 1964.

⁵⁵ The Official Gazette, Annex to No. 13, (March 28, 1962), The Annual Report on the Work of the Central Inspection Board for 1961, p. 482.

sections under his supervision, together with the fact that he has been entrusted with looking over the conditions of the municipalities and moukhtars in order to watch how they handle and run people's affairs; plus their being overwhelmed with the functions they have assumed regarding regional programs of socio-economic development would cast light on this aspect. A lot of the muhafez's time is usually devoted to questions of order, security and political matters and hence his contribution to the administrative tasks suffers to a large extent.⁵⁶

The government acknowledged the overwhelming activities the muhafez is required to accomplish. The government stated that it goes without saying that the muhafez himself spends a great deal of his working hours on administrative functions which he has acquired recently with respect to development programs, economic burdens, planning activities, and the co-ordination of the administrative work among the several offices of the central ministries in the muhafaza whose work increased due to the deconcentration of authority on the regional level.⁵⁷ The increasing back-log of administrative work in the immediate offices of the muhafezin--especially in what concerns financial transactions as surveillance over budgetary, accounting and personnel files--was also recognized.⁵⁸

⁵⁶ Nahhas, op.cit., p. 197.

⁵⁷ Draft Decree No. 13361 dated July 17, 1963, p. 1.

⁵⁸ Ibid.

The muhafezin are usually occupied with looking over quarrels and differences which are the consequence of partisanship. Thus, such questions as the installation of a telephone cabin on the property of any individual in the village, reports of a person building a wall or a room without license, denunciation of the owner of a cattle-pen are important matters which often lead to provocation of trouble. They become the talk of the village, matters which are really the main concern of the qaim maqam, muhafez and whichever local deputy who may be involved. On many occasions, the municipality becomes the prime mover in partisanship and quite often the moukhtar is its instigator.⁵⁹

The telephone provides a headache to the administration. For instance, an application for a telephone kiosk for a village involves a lengthy procedure and the interference of prominent political zaims. The application is signed by hundreds of men and endorsed by the moukhtar certifying the good conduct of the applicants after which counter-applications are signed by hundreds more. The gendarmerie make their investigations and submit it to the qaim maqam who has to comment thereon. Cards of recommendation and the interference of interested and influential parties is manifested and the whole administration including the muhafez become involved.⁶⁰

The municipal councils which are predominated by partisan

⁵⁹ Abu Izzeddin (ed.), op.cit., p. 58.

⁶⁰ Ibid., p. 62.

members are a main concern to the muhafez. Acting from the beginning of their term in defiance of public interest and constructive work, they bicker with adversaries and hamper speedy action.⁶¹

The regional administration fails in many cases to provide material means for its employees. It is a necessity that the state must provide its employees with enough facilities conducive to useful work. The muhafazas are in need of paper, chairs, tables and typewriters. Most of the chairs used by officials nowadays are dilapidated while tables date back to ten years.⁶²

Moreover, the regional administration suffers to a large extent from the number and complexity of official formalities. Some muhafezin, furthermore, complain of the limited authority they have over the budget funds. Thus, for example, whenever funds for maintenance are to be spent, they have to go back to Beirut before any expenditure can be incurred.⁶³

The Muhafez and the Health Council

Health councils are not provided for legally.⁶⁴ However,

⁶¹Ibid., p. 65.

⁶²Ibid., p. 65.

⁶³Ibid., p. 46.

⁶⁴This has been the case since the abolishing of health councils by Legislative Decree No. 11 dated December 29, 1954. Interview with the head of the technical health service at the ministry of public health, Mr. Mahmoud Hallab, September 30, 1963.

there is a health council in each of the muhafazas of Mount Lebanon and Al-Biqa. The council, which is presided by the head of the health service in the region discusses health questions at the instigation of the muharez. It is composed of the qaim maqams and personnel of the ministries of public health and of social affairs in the muhafaza. The council is summoned to meet at any time by the muharez. It administers health laws in the muhafaza and suggests methods of improvement to the muharez.⁶⁵

The Achievements and Programs of Some Muhafezin

It was stated earlier that many of the villages lack basic facilities which include such services as electricity, water, public schools, medical care, social welfare as well as agricultural and economic schemes.

The main problem facing the muhafezin of the different provinces is the lack of enough money for coping with the heavy burdens carried by municipalities. For example, the municipal budget of Beirut which was L.L. 6 million in 1952 became L.L. 23 million in 1961 and yet the amount was considered insufficient for the realization of development plans which need no less than L.L. 60 million for the capital alone.⁶⁶ The lack of enough funds remains the predominant factor despite the fact that the municipalities obtain from the state a good deal of appropriations for the implementation of

⁶⁵Ibid.

⁶⁶Ibid., p. 102.

projects.⁶⁷

The government has been aware of the need to supply Lebanese villages with the basic services they cannot dispense with. According to the plan laid down in early 1962, some 450 million Lebanese pounds will be spent in the next five years--apart from the annual budget--on roads, water supply, electricity, telephones and schools.⁶⁸ It is hoped that in 1968 there would not be a single village in Lebanon without these government facilities.

Through the instrumentality of some muharezin many reform schemes are either started or prepared for the development of the muhafazas. These are some of the projects:

A. The Muhafaza of Beirut⁶⁹

1. Beirut slaughter houses: when Mr. Emil Yanni, the muharez of Beirut, took over his appointment, the execution of this project, under study for a long time, met with difficulties. He has made efforts to eradicate them and hope shortly to issue tenders relative to slaughter-houses.

⁶⁷ Although the state distributes L.L. 300,000 to the villages for rehabilitation purposes every year and although municipalities receive L.L. 10 million from the municipal equipment fund annually, yet the sum is considered insufficient to meet the basic requirements which are considered essential in modern times. Ibid., p. 110.

⁶⁸ Ibid., p. XII.

⁶⁹ Ibid., pp. 102-104.

2. Street clearing: the muhafez is going to issue tenders for clearing the capital and the disposal of rubbish by appropriate means.

3. Rehousing: the muhafez plans the abolition of shanty buildings with prior establishments and the provisions of cheap accommodation to the occupants.

4. Sewage: the muhafez plans to reinforce the sewage system rendered inadequate by the extensive development of the city. Moreover, a system of canalisation for rain water is going to be established.

5. Drainage: there are plans for removing the causes of water stagnation.

6. Road development: the plan is to enlarge certain streets and open new ones.

B. The Muhafaza of North Lebanon

The following projects were implemented by Dr. Halim Abu Izzeddin, the Acting Muhafez of North Lebanon.⁷⁰

1. Work has started in Akkar on the erection of poles, the extension of electrical cables and the construction of transmissions units for the purpose of lighting the villages in the district from the water surplus of Nahr-Al-Barid. Work is in progress in the construction of a dam at Nahr-Al-Barid. This, it is hoped, will have great importance in the irrigation of large parts of Akkar

⁷⁰ Interview with the Acting Muhafez of the North, Dr. Halim Abu Izzeddin, December 19, 1963.

Plain and in the supply of drinking water to several thirsty villages. Moreover, modern irrigation schemes were introduced in Akkar. In addition, an agricultural trade school was opened to develop agriculture and train farmers in modern methods.

2. The muhafez introduced a new sewage system. The project's cost reached L.L. 7 million.

3. A coastal road was opened joining the entrance of Tripoli with Al-Baddawi.

4. The muhafez continued the boulevard which passes through Tripoli from South to North.

5. Tripoli--Sir road was widened.

6. The thirsty villages benefitting from Nab-Sir were supplied with drinking water.

7. Kasba--Sir road was widened.

8. Skiing and tourism in the Cedars were regulated.

9. The thirsty villages benefitting from Nab-Iskandar were supplied with drinking water.

10. The thirsty villages in Al-Batroun were supplied with drinking water from Nab Houb.

11. The muhafez played great efforts in realizing the project of the International Fair in Tripoli.

12. The muhafez played a big role in reaching a general reconciliation between the opposing families of Zghorta.

13. The muhafez participated in the formation of Gibran's

Committee. The latter was entrusted with taking the necessary care for the preservation of Gibran's paintings and compositions.

14. The government is laying a comprehensive road network for connecting the villages around Zghorta with the town on the one hand, and with Tripoli on the other, ensuring communication between the districts of EL-Koura and Zghorta, Syr-Dinnieh, Ehden and the Cedars and the improvement of municipal roads in Zghorta itself. Moreover, a scheme is being laid for the exploitation of the huge hydraulic power at Zghorta, by building a water storage dam to be used for irrigation of neighbouring lands, generation of electricity and the use of an artificial lake as a tourist centre.

C. The Muhafaza of Mount Lebanon

The muhafez played a great role in the preparation of schemes for the development of the mountain. The hydraulic schemes involve:⁷¹

1. The supply of sixty villages in Jbeil district from Betrayesh and Sera'ita. Completed to date are the works of the line and storage tanks.

2. Supply of Jbeil town and the broadcasting station from the Adonis canal.

3. Supply of Kisirwan and Ftouh with drinking water from Nab-el-Assal, Khodira, Farah, Zabub and Ji'ta Grotto.

4. Supply of villages of Northern Matn with drinking water

⁷¹ Abu Izzeddin (ed.), op.cit., p. 88.

from Nab-el-Assal, Manboukh, Abu Azm and Ji'ta Grotto water.

5. Supply of some of the High Matn villages with Barouk water, Kfar Silwan and Nab Ri'yan.

6. Barouk scheme which will supply the districts of BA'abda, Aley and Chouf.

7. The Safa scheme which will supply a section of Kharoub region, Ain Zhalta and Dmohrayah.

8. The Ain Dilba scheme which supplies the southern coast to which some wells in Hadath and coastal villages will be added. The irrigation schemes include:⁷²

1. The Adonis scheme which will irrigate the coast from Maamaltein to Biohta.

2. The Kisrwan scheme from Nab-el-Assal waters and Mghara spring.

3. The lowland of the Dog River scheme.

4. The irrigation schemes for the southern coast of Beirut from Dashwanayah.

5. The Damour irrigation scheme.

6. The Safa irrigation schemes from the water of Beit Eddine canal.

D. The Muhafaza of the South

Electric power projects already planned by the government are

⁷²Ibid., pp. 88-89.

partially completed under the surveillance of Mr. Ghalib el-Turk, the muharez of the South, others are in progress. The electric power projects include five main lines connecting with the general network. One line will supply the coast between Sidon and Tyre. The second will connect Sidon to Djezzine, the third will connect Zahrani, Nabatiyyah and Marjeyoun; the fourth will operate between Tyre, Jwaza and Bint Jbeil. The fifth planned for the future will connect Bint-Jbeil and Marjeyoun.⁷³

As for water supply schemes, some were completed recently and others are in progress. These include Shiba'a spring scheme, Tasseh spring scheme and Jabal Amel scheme.⁷⁴

⁷³Ibid., p. 68.

⁷⁴Ibid., p. 67.

Chapter VII

SUMMARY AND CONCLUSION

The four centuries of Turkish rule in Lebanon led to laying down the framework of an administrative set-up which persisted in its essentials to the present day.

The sanjaks of Tripoli, Beirut, and Sidon were subject to the vilayet law of 1864, spelled out in the vilayet administration law of 1871. According to these laws, the mutasarrif was entrusted with the power of executing all the orders emanating from the imperial government as well as the instructions transmitted to him by the wali relatively to his jurisdiction. Moreover, the mutasarrif was assisted by an administrative council which controlled the civil administration, finance, levying of taxes, education, agriculture, public health and works of public utility.

The autonomous sanjak of Mount Lebanon, however, enjoyed a special status. Ibrahim Pasha, the son of the governor of Egypt, occupied the mountain in 1831. During the Egyptian occupation (1831-1840) intersectarian differences widened between the Christians and Druzes and subsequently after the evacuation of the Egyptian troops, the Lebanon was divided in 1842 into two qaim maqamiyahs, a northern governed by a Christian qaim maqam and a Southern under a Druze qaim maqam, both responsible to the Sidon wali who appointed the sub-governor of each district.

Following the mischievous events of 1851-1860 French forces landed at Beirut and did not withdraw until a new statute was instituted according to which Lebanon came under the rule of a Christian governor appointed by the sultan with the approval of France, Britain, Russia,

Prussia and Austria. The governor's administrative council which was divided among the various religious sects served as an advisory body responsible for the collection of revenues and apportionment of taxes. Beneath the mutasarrif, the seven districts administered by qaim maqams served as the arms of the mutasarrif.

After the defeat of Turkey in the first world war, the mandate over Lebanon was conferred upon France pursuant to a decision taken by the San Remo Conference which met on April 18, 1920.

During the first years of the French rule each of the four sanjaks of Northern Lebanon, Southern Lebanon, Mount Lebanon, and Biqa was headed by an appointed administrator designated as the mutasarrif. The major cities of Beirut and Tripoli which possessed an autonomous administrative status, were governed by two governors whose position corresponded and was equivalent to that of the mutasarrif.

On April 9, 1925, Grand Liban was reorganized administratively, the autonomous cities and sanjaks, were abolished and new circumscriptions called muhafazas were created. Soon legislative decree No. 5, dated February 3, 1930, divided the Lebanese territory into five muhafazas each governed by a muharez who was the direct representative of the central authorities in the region. He was responsible for the execution of all the laws and regulations issued by ministers to the different administrative departments of the region. He controlled the personnel of the ministries in the muhafazas and was entrusted in particular with the preservation of public security

and order, the safeguarding of individual liberty, the spread of education and the maintenance of appropriate healthy conditions.

Following the independence of Lebanon in 1943, administration retained the Ottoman and French Characteristics of centralization and concentration. However, in 1959 and as a measure towards de-concentration, the muhafez became responsible for administering the personnel matters of the regional offices. At the present time, the muhafez is authorized to grant the employees of the technical services annual and sick leaves. He gives the employee an annual leave at full salary for twenty days. He decides the time of the leave in such a way as to presume the continuation of work. He grants sick leaves for a maximum period of one month to employees who submit a medical report of illness signed by a physician. The muhafez, moreover, has the right to impose penalties of reprimand and salary deductions for a period not exceeding ten days pursuant to a written request from the direct superior of the employee in the muhafaza.

The Lebanese Republic is divided into the five muhafazas of Beirut, Northern Lebanon, Southern Lebanon, Mount Lebanon and the Bija. Each muhafaza is administered by a muhafez who is a local agent appointed, and responsible only to the central government. The muhafez represents the central authorities and is responsible for all the affairs of the regional offices of the ministries in the muhafaza. The ministerial offices are placed by law under the control of the muhafez who is supposed to supervise and co-ordinate their various functions.

However, this is only on the theoretical level, and if one examines the situation on the practical side he will find in many instances the actual situation different. The muhafez on his part does not usually interfere in the work of the regional departments except to require their help when he is in need of it. He does not

interfere in the minute details of their business because the major duties and activities occupy the greater portion of his time.

As regards the regional employees of the ministries of justice and national defence, he is entrusted with the duty of informing their ministries, whenever he sees fit, on any irregularity or mismanagement in which they are involved. Since he is responsible for the execution of laws and regulations in the region, and to do so in the best possible way, he is entrusted to take all the proper measures for the co-ordination and accomplishment of work. To perform this function he is entitled to make personal inspection or meet the heads of the offices either separately or in joint sessions. Moreover, he observes the economic, political, agricultural and social conditions of his muhafaza and conveys his observations monthly or whenever necessary to the ministry of interior. Thus the muhafez presides over the muhafaza. All appointed government officials are responsible to him as he is their senior in rank. The regulations and rules provide that all officials should receive orders from him, and that through him the various ministries should contact and supervise their local departments. This is not usually what occurs for a good deal of communication is transmitted directly by the offices to the concerned central ministry without going back to the muhafez. This situation prevails occasionally with the consent of the muhafez himself.

The muhafez is entitled to execute all the functions delegated to

him by the minister of interior. He presides over the meetings of the qaim maqams which are held continuously. Moreover, he has the authority to demand the services of the police force whenever the public peace in the muharaza is endangered, as for example in the case of demonstrations, riots and unlawful assemblages. It is also his duty to aid the judiciary and the courts in the law enforcement.

Overconcentration created many administrative problems. Hence the policy of the government has been directed over the years towards deconcentration. Matters, which were previously completed at Beirut, are now entrusted to the offices of the central ministries in the muharaza. These offices accomplish their tasks under the constant and vigilant surveillance of the muhafez. Thus devolution of authority, it is hoped, would reduce the piling of work in the government departments at the capital, to such a degree that the central ministries are less paralysed with the overloading of official business and unnecessary delay. The muhafez must be well versed in administrative affairs and must be freed from political interference elicited by strong zaims. Contrary to the prevalent practice of choosing the muhafezin on political basis from among persons who are legally-oriented, the muhafez must be recruited from among well-trained secretary-generals who usually develop the necessary capacities during the time they serve under the auspices of the muhafez. The government has been aware of this need and as a result a law was passed recently creating the post of secretary-general in the muhafazas

of South Lebanon, North Lebanon, Mount Lebanon and al-Biqa.¹ The advantage of the office is that it would help avoiding any delay which results from the muhafez's preoccupations with political and representation matters not immediately connected with the administration. The post of the secretary-general, it is believed, would assist the muhafez in the accomplishment of tasks entrusted to his surveillance. The reasons justifying the establishment of the position included the increasing backlog of administrative work in the immediate offices of the muhafezin--especially in what concerns financial accounting and personnel files, the increasing work resulting from the application of decentralization to regional offices and the new tasks given to the muhafezin regarding the implementation of development programs and the distribution of the "equipe polyvalentes" on the various muhafazas. The post, moreover, is regarded as an important part of apprenticeship for the position of a muhafez. The secretary-general, thus becomes an acting muhafez whenever the old one is sick or absent.² In addition whenever the post of the muhafez becomes vacant, it must be filled by the secretary-general through promotion as in the case when a well-trained qaim maqam is promoted to the post of the secretary-general. This practice if followed, will to a large degree, ensure the selection of well-qualified muhafezin but it will not guarantee expedient and efficient

¹The Official Gazette, No. 16, (February 24, 1964), Decree No. 15402 dated February 13, 1964, art. 1, p. 544.

²Ibid., art. 3, p. 544.

local administration.

The muharez is assisted by a muhafaza council composed of the muharez as chairman, and the membership of the head of the muhafaza's finance, the qaim maqams of the muhafaza and of two members of every qada (representing the free trades, the merchants, the industrialists, the labor syndicates and the land owners who are appointed by decree at the instigation of the muharez). These council members can be discharged before their term of office by a ministerial decree issued by the minister of interior, on the recommendation of the muharez.

The main function of the council is to offer advice to the muharez. Since its establishment this body has not played any significant role in the affairs of the muhafaza. This is due to the fact that the powers of the council are essentially consultative. Furthermore, its members are mostly inefficient because they are appointed on political considerations from among influential families.

The structure and powers of the muhafaza councils must be reconsidered if they are to serve an effective purpose. All the members of the council ought to be elected instead of being appointed as is the case today. Such a step is democratic in nature because it will lessen the control of the central government since it will avoid appointed persons whose policy will, most probably, be in the interest of the central authorities rather than local benefit. The competence of the council must cover the authorization to issue ordinances on all matters relating to the muhafaza with respect to health, agriculture, education, finance and public works. It must

have the power to distribute and administer the special budget funds among the villages which have no municipal council without going back to the minister of interior.

The council must be authorized to apportion the cost of inter-municipal works not done by the ministry of public works among the participating municipalities when there is any dispute and must designate the sectors of highways of inter-municipal importance for which each municipality is responsible. Certain special texts must include fixing the charges that can be levied for maintaining municipal roads. The functions of the council must also embrace the fixing of tariffs for liquor and spirits, the rendering of opinion on questions affiliated to public utility, the granting of licenses for the building of restaurants, and the selection of land for building graves and tombs. It must, furthermore, be allowed the levying of extraordinary expenses and fees, the granting of concessions, promotion of tourism and estivation and every question the muhafez lays before it. The powers of the council over the municipalities must be extended to reach the control of every thing which transcends the limits of one single municipality or affects all of them and in a large proportion of cases its decision must be final.

The council then must serve as a legislative body of the muhafaza. In this respect the muhafez must provide it with a survey of work at hand in the muharaza and the policy he recommends for the coming year. If it wishes, the council must be allowed to have direct access to the minister and through its president, the muhafez, it can

place before him any matters of special interest to the muhafaza and any suggestions as to the need for state services.

This does not mean that the council can follow its whims and wishes freely; for the minister of interior must have the power to dissolve it on the recommendation of the muhafaiz in cases wherein the council members exceed their powers or fail to implement functions legally incumbent upon them.

Municipal government in Lebanon is characterized today by the lack of real local autonomy. Hence local units are designated as the appendages of the central authorities rather than autonomous bodies. Despite the claims that the 1963 municipal law was a great measure of decentralization, but in fact that has not been the consequence. Deconcentration there has, perhaps, been to a certain extent since 1958, but even that has been little more than the transfer of certain powers from the minister of interior to the muhafaiz or from the muhafaiz to the qaim maqam. Thus, government by local bodies, freely elected which while subject to the supremacy of the national government, are endowed in some respects with power, discretion and responsibility, which they can exercise without control over their decisions by the higher authority even in certain important aspects only,

is non-existent in Lebanon. The municipalities which are supposed to be the basic units of local government are practically subject to a considerable degree of supervision and control by the tutelage authorities. The central government keeps control over them vis-a-vis the muhafez who is accountable directly to the minister of interior or through the qaim maqam who is responsible for functions he implements to the minister through the muhafez. In this way control is maintained from the apex of the hierarchical chain down to its base.

The need today is first to provide for a measure of de-concentration in the sense of the central government using as its agent, a representative local government body headed by the muhafez and empowered to meet a certain range of local needs. The government has been aware of this need and hence since the assumption of presidency by General Fouad Chehab in 1958 many measures were passed to meet this end. As a result of this devolution of power the role of the muhafez not only became more important but also his association with the regions and its needs became more intimate. However, the only drawback in this direction is the insignificant

role played by the muhafaza council. Therefore, the author believes that the strengthening of this regional body by reconsidering its structure and functions, as stated at the beginning of this chapter, is of utmost importance.

The second indispensable tool which enable the central authorities to provide facilities and services demanded by the citizens of Lebanon in rural areas is through municipal government. Thus, it is the opinion of the author that local units of government are necessary to effective administration. A system of local government which is based on the principle of local autonomy is one in which the municipalities are not merely agencies of a higher authority but rather units which have a good deal of responsibility within their sphere of jurisdiction. This sphere must be of sufficient scope to make the local authority significant in the esteem of citizens and thus attract into public service a high quality of men. Without the assurance of reasonably adequate resources commensurate with its responsibilities, local government and the responsibility of local elected bodies to their electors becomes a sham.

The power of municipal councils in Lebanon would then include

among others the following:

1. Power to take positive action to do certain things, e.g. power to maintain fire brigade, parks or playgrounds, to lay sewers, to maintain streets, and to regulate the affairs of public health, municipal police, hospitals, public transportation, central market places, grave yards, theaters, cinema houses, water supply and electricity.
2. Power to prevent certain actions, e.g. the making of loud and disturbing noises in the streets, prolonged emissions of dense smoke.
3. Power to license activities or business as e.g. pedlars, laundries, restaurants and butcher shops.
4. Power to enter into agreement with other municipalities for carrying out services of common interest.
5. Power to conduct its own business e.g. appoint and dismiss municipal employees or to regulate the procedure of council meetings.
6. Power to raise money through taxation.
7. The fixing of tariffs for transportation by cars, vehicles and animals.
8. Acquisition of immovable property when the total price is not more than L.L. 25,000.
9. Rent contracts whose annual returns is not more than L.L. 10,000.
10. The insurance of municipal buildings.
11. The acceptance of gifts and donations which are not conditional.

12. Conduct of programs for the needy and poor.

The decisions that would require ratification by the qaim maqam or muhafez when the latter acts in his capacity as the qaim maqam of the central qada would involve:

1. The municipal budget.
2. The municipal rates.
3. The acquisition of immovable property when the total cost is above L.L. 25,000 and below L.L. 40,000.
4. Rent contracts whose annual return is between L.L. 10,000 and L.L. 15,000.
5. Public works when the total cost does not exceed L.L. 25,000.
6. Financial assistance to philanthropic institutions.
7. Collection of municipal taxes and fees.
8. Works executed without prior agreement when the total amount is below L.L. 5,000.

The decisions which are not executory except after the ratification of the muhafez would include the following:

1. The acquisition of immovable property when the total cost ranges between L.L. 40,000 and L.L. 75,000.
2. Public works when the total cost ranges between L.L. 25,000 and L.L. 300,000.
3. The power to sell municipal property when the total price is between L.L. 25,000 and L.L. 75,000.

4. The acceptance or refusal of gifts and donations bearing any charge or conditions or with power of reclamation.
5. The utilization of municipal property for specific purposes.
6. Works executed without prior agreement when the total amount is below L.L. 50,000.
7. Settling of conflicts and disputes.
8. Authorization to the municipalities to institute action in courts.

Decisions that are to be subject to the approval of the minister of interior would include:

1. Extraordinary expenses and loans.
2. Public works when the total cost is beyond L.L. 300,000.
3. The sale of municipal property when the total price exceeds L.L. 75,000.
4. Works without prior agreement when the total amount is beyond L.L. 50,000.

Hence municipal governments must be given more authority. A municipal council must be free to pass and implement its decision with minimum interference on the part of the muhafez or minister of interior. All the resolutions of a municipal council subject to the confirmation of the muhafez must be submitted to him for approval within a period of ten days from the date of their receipt. The work of the muhafez in this connection would be only for checking legality and conformity with public policy, for the muhafez must not have the power to cancel or alter a resolution taken by the

municipal body unless when it is contrary to the law. In such situations the decision is sent back to the council concerned accompanied by a written explanation of his disapproval and demanding the reconsideration of the question. If the council insists on its previous decision, then the matter should be sent to the council of state for adjudication.

The muharezin have complained often of municipal mal-administration. They have suggested that the whole municipal system should be re-organized on the grounds that municipal governments have not contributed in any way to their basic objective, mainly the preparation for self-government and democracy. To remedy the situation, they suggested the abolition of elections to the municipal boards. Instead members should be nominated. By such means, it is believed, all the elements in the village would be represented or candidates moderate in their political passions would be selected.³ In this way partisan feelings, which is behind the defiance of public interest and constructive work would be avoided. If suitable candidates cannot be found inside the village, there would be no objection to recruiting them from the outside.⁴ Moreover, it is essential that the local bodies be subject to strict supervision in order to conform to the general plan of reform adopted by the government.⁵

³ Halim Abu-Izzeddin (ed.), Lebanon and Its Provinces (Beirut: Khayats, 1963), pp. 16 and 65.

⁴ Ibid.

⁵ Ibid., p. 16.

This suggestion is unfit because it hinders the creation of a system in which local questions would be handled by the people of the area who are more acquainted with the problems and hence are in a better position to recommend and apply solutions to them. Thus the provision of effective services to the public must be through decentralization. It is true that the present municipal law provide for elected local bodies whose function is to help the muhafez in the administration of his region, but the role of these councils has been insignificant. Whatever the case is, the need for more decentralization and more local authority is becoming more urgent than before if any reform is to succeed. Although decentralization is being advocated, its satisfactory realization depends on a change of outlook in respect to local government. One of the major problems facing local administration is the need to have an alteration in purpose and spirit. Local administration in the age of science, technology, and human rights is necessary not only for the sake of government power and revenue, though these are still important, but also for the purpose of economic and social development. The people in their local communities have to be associated with this process if they are to share in its benefit, contribute to its success, and generally feel that they are part of it. Local government can provide training in self-government only in so far as it is helped to be efficient and to render real services.

With these changes in purpose and spirit comes a need to

restudy the areas appropriate to the administration of the various services. This role could be assumed partly by the municipalities. Local self-government cannot, however, be achieved by enacting it into law, but that it needs the most careful counselling if it is to become orderly, effective and community minded. The traditional Lebanese type of tutelage, with its checking of local budgets and decisions is as necessary here as elsewhere, but it has been proved by experience that this alone is not enough. The control exercised on the part of the central authorities as the minister of interior, the muhafez or qaim maqam can then be supplemented by granting additional power to local bodies which can play their proper role in the promotion of economic and social development.

Local administration in Lebanon today stands at its cross-roads. This is simply because it is expected that the new regime which came into power after the mischievous events of 1958, will introduce basic changes in the prevalent system of administration. The law which was enacted in May 1963 has not introduced any measures leading to local self-government. Rather, the trend has been to a certain extent towards deconcentration. The government was aware of the chronic situation and hence it presented to parliament in February 1964, a new draft bill for amending the existing law. The draft law, as it was presented by the Lebanese government to parliament a few days before the latter's dissolution includes some changes which would lead if implemented to granting additional powers to the muhafezin and qaim maqams.

According to the draft bill, the decisions that would require ratification by the qaim maqam or muhafez when the latter acts in his capacity as the qaim maqam of the central qada would include the following:⁶

1. The municipal budget.
2. The municipal rates.
3. The acquisition of immovable property when the total price is below 25,000 L.L.
4. The acceptance or refusal of gifts and donations.
5. Financial assistance to the social, educational and athletic clubs or societies.
6. The fixing of tariffs for transportation by cars, vehicles and animals.
7. The sale of municipal property when the price is not beyond L.L. 15,000.
8. Public works when the total cost does not exceed L.L. 25,000.
9. Works executed without prior agreement when the total amount is not more than L.L. 5,000.
10. Settling conflicts and disputes involving less than L.L. 25,000.
11. Confirming the appointment of municipal employees made by the mayor.

⁶Draft decree No. 15384 dated February 13, 1964, art. 1.

Moreover, the bill specified that some decisions would not be executory unless they are ratified by the muhafez. These would include:⁷

1. The acquisition of immovable property when the total price is beyond L.L. 25,000.
2. Sale of municipal property whose price ranges between L.L. 15,000 and L.L. 50,000.
3. Public works when the total cost is between L.L. 25,000 and L.L. 200,000.
4. Works without prior agreement when the total amount is between L.L. 5,000 and L.L. 25,000.
5. Settling of conflicts and disputes involving more than L.L. 25,000.
6. The utilization of municipal property for specific purposes.

Decisions that are to be subject to the approval of the minister of interior would include:⁸

1. Decisions that constitute permanent regulations.
2. Works without prior agreement when it involves amounts beyond L.L. 25,000.
3. Public works when the total cost is beyond L.L. 200,000.
4. Loans and extraordinary expenditures included in the ordinary municipal budget.

⁷Ibid.

⁸Ibid.

5. Construction, demolition or repair of streets, public squares, parks and gardens.

6. Any change in the condition or status of public roads, highways and race courses.

7. The establishment of inter-municipal syndicates in order to provide common services of public benefit.

Furthermore, the draft bill states that all the powers granted to the minister of interior in respect of the chief towns of the muhafazas except Beirut are to be exercised by the muhafaiz. Thus, the decisions passed by the municipal councils of Tripoli, Saida, Zahla and Ba'abda would require the approval of the muhafaiz and not the minister of interior in order to become operative.⁹

In addition, regulatory decrees would be issued on the recommendation of the minister of interior and the minister of finance pursuant to the suggestions of the muhafaiz in relation to municipal regulations and accounts.¹⁰ The apportionment of income from the municipal equipment fund and general equipment fund would be done in the same way.¹¹ Moreover, the opinion of the muhafaiz would be considered when laying down the principles governing the distribution of common fees and fees on inflammable articles among the municipalities.¹²

⁹Ibid.

¹⁰Ibid., art. 5.

¹¹Ibid.

¹²Ibid.

Furthermore, the muhafez who would exercise the functions of the qaim maqam in respect to the municipality of Beirut, is not to be authorized to approve the budget. This role would be reserved to the minister of interior.¹³

Finally, the draft bill allows the muhafez to undertake certain disciplinary measures against the mayor, deputy-mayor or any other municipal councilman. The disciplinary punishments which would be inflicted involve a warning and suspension from office for one or three months.¹⁴

The draft bill as such would be discussed by the new parliament after the national elections are carried out in April and May 1964.

However, one can easily observe from studying the draft bill that the trend is in the direction of deconcentration rather than decentralization. Thus, the muhafezin and qaim maqams would assume a good deal of responsibility since most of the decisions of the municipal councils would not be executory unless approved by a higher authority.

One then can predict that prospects for the future involve deconcentration of administration not necessarily at the centre itself but rather in the hands of a hierarchy of local agents of central government.

¹³Ibid., art. 1.

¹⁴Ibid.

APPENDIX I

Table 1

The Distribution Of Positions In The Muhafazas Agricultural Services (a)

	Total	The Muhafaza of Mt. Leb.	The Muhafaza of North Leb.	The Muhafaza of South Leb.	The Muhafaza of Al-Biqaa
Head of Service	4	1	1	1	1
Head of Department	4	1	1	1	1
Veterinary Doctor	8	2	2	2	2
Technical Engineer or Doctor	4	1	1	1	1
Engineer	19	5	6	4	4
Agricultural Technical Associate	83	19	25	17	22
Veterinary Associate	38	9	11	7	11
Forestry Inspector	8	2	2	2	2
Forestry Supervisor	20	4	6	5	5
Fish Controller	3	1	1	1	-
Workshop Agent	4	1	1	1	1

Table 1 (Cont'd)

Total The Muhafaza of Mt. Leb. The Muhafaza of North Leb. of South Leb. of Al-Biq'a The Muhafaza

Senior and Junior Clerks	12	3	3	3	3
Stenographer	4	1	1	1	1
Forestry guard	80	20	37	23	-
Fish guard	20	8	6	6	-
Guard	37	4	3	5	25
Farmer	6	1	1	2	2
Keeper	1	-	-	-	1
Janitor	8	2	2	2	2
Servant	1	-	-	-	1
Total	364	85	110	84	85

(a) Antoine Baroud, Michael Saleh, and Shahin Hatim (ed.), The Modern Collections of Lebanese Laws, (Decree No. 8371 dated December 30, 1961, Annex. No. 1 and Decree No. 8372 dated December 30, 1961, art. 1), III, pp. 24-26 and pp. 37, 40, 42 and 44.

TABLE 2

The Distribution of Positions in the Mubafazas' Health Services^(a)

	Total	The Mubafaza of Mt. Leb.	The Mubafaza of North Leb.	The Mubafaza of South Leb.	The Mubafaza of Biga
Head of Service	4	1	1	1	1
Health Engineer	4	1	1	1	1
Pharmacy Inspector	2	1	1	-	-
Head of Hospital ^(b)	5	1	1	1	2
Head of Hospital Attending Doctor	15	5	3	4	3
Head of Administrative Section	6	1	2	1	2
Chief of Section - Doctor	41	10	12	12	7
Chief of Section - Pharmacist	5	1	1	1	2
Attending Doctor	10	2	2	2	4
Specialized Doctor ^(c)	84	2	2	2	4
Head of Nurses	20	6	4	5	5

Table 2 (cont'd)

	Total	The Muhafaza of Mt. Leb.	The Muhafaza of North Leb.	The Muhafaza of South Leb.	The Muhafaza of Biqa
Head of Branch - Nurse	16	3	3	5	5
Nurse	71	15	18	17	21
Assistant-Nurse	152	42	35	43	32
Nurse-Assistant	4	4	-	-	0
Midwife	69	18	16	20	15
Health Instructor	4	1	1	1	1
Health Controller	13	7	4	1	1
Health Officer	26	8	10	2	6
X-Rays Bailiff	9	1	2	3	3
Medical Process-Server	20	5	4	6	5
Laboratory technician	13	2	3	4	4
Mechanics	4	1	1	1	1
Cinema Operator	4	1	1	1	1

Table 2 (Cont'd)

Total	The Muhafaza of Mt. Leb.	The Muhafaza of North Leb.	The Muhafaza of South Leb.	The Muhafaza of Al-Biga
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Junior clerk	29	9	7	6	7
Stenographer	9	2	2	2	3
Maintenance worker	7	1	1	3	2
Correspondence Distributor	4	1	1	1	1
Driver	35	7	9	10	9
Cookery	20	6	4	5	5
Dress-maker	4	-	1	1	2
Driver-Assistant	6	1	2	2	1
Cookery-Assistant	8	2	1	2	3
Farmer	4	-	1	1	2
Door-Keeper	14	4	2	4	4
Janitor	14	2	3	5	4

Table 2 (Cont'd)

Total	The Muhafaza of Mt. Leb.	The Muhafaza of North Leb.	The Muhafaza of South Leb.	The Muhafaza of Al-Biqe
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Man-Servant or Maid-servant	82	20	20	8	34
Man Servant	45	10	13	11	11
Maid servant	53	13	9	21	10
Total	935	229	223	238	245

(a) Antoine Baroud, Michael Saleh, and Shahin Hatim (ed.), The Modern Collection of Lebanese Laws (Decree No. 8377 dated December 30, 1961, annex No. 1, Decree No. 8378 dated December 30, 1961, art. 1 and Decree No. 8379 dated December 30, 1961, art. 1), III, pp. 27/17 - 27/23 and pp. 28/26 - 27/31 and pp. 27/48 - 27/60 - and pp. 27/65 - 27/73.

(b) The Head of Hospital is a doctor whose position is equivalent to that of Head of Department. Ibid.

(c) The specialized doctors include the physician, the aurist, the dentist, the oculist, the dermatologist, the neurologist, the alienist, the gynecologist, the surgeon, the psychiatrist and doctors who are specialists in internal medicine, X-rays, children diseases and heart. Ibid.

Table 3

The Distribution Of The Positions Of The Ministry of Interior In
the Muhafazas (a) and Qadas. (b)

	Total of Nt. Leb.	The Muhafaza of North Leb.	The Muhafaza of South Leb.	The Muhafaza of AL-Biqaa	The Muhafaza of Beirut
Muhafez	5	1	1	1	1
Qaim Maqam	20	5	6	4	-
Head of Department	5	1	1	1	1
Head of Section	5	1	1	1	1
Senior or Junior clerk	15	5	3	3	1
Stenographer	4	1	1	1	-
Janitor	5	1	1	1	1
Total	59	15	13	14	12
					5

(a) Antoine Baroud, Michael Saleh, and Shahin Hatim (ed.), The Modern Collection of Lebanese Laws, (Decree No. 8354 dated December 30, 1961, art. 1, and Decree No. 8355 dated December 30, 1961, art. 1), III, pp. 10-11 and 16-20.

(b) There is a senior clerk, a junior clerk and a janitor in every qada. Ibid., (Decree No. 8355 dated December 30, 1961, art. 1), III, pp. 16-20.

Table 4

The Distribution Of Positions In the Public Works Directorate of the
Muhafazas. (a)

	Total	The Muhafaza of Mt. Leb.	The Muhafaza of North Leb.	The Muhafaza of South Leb.	The Muhafaza Al-Biq
Director	4	1	1	1	1
Head of Department	16	4	4	4	4
Engineers	49	19	10	10	10
Trainer	91	40	17	17	17
Painter	18	6	4	4	4
Surveyor	20	8	4	4	4
Senior and Junior clerks	72	21	17	17	17
Stenographer	11	2	3	3	3
Telephonist	4	1	1	1	1
Mechanics	9	-	3	3	3
Driver	6	-	2	2	2
Janitor	32	11	7	7	7
Total	332	113	73	73	73

(a) Antoine Baroud, Michael Saleh, and Shahin Hatim (ed.), The Modern Collection of Lebanese Laws, (Decree No. 8360, dated December 30, 1961, Annex 1) I, pp. 31-35.

Table 5

The Distribution Of Positions In The Muhafazas's

Department of Finance. (a)

	Total	The Muhafaza of Mt. Leb.	The Muhafaza of North Leb.	The Muhafaza of South Leb.	The Muhafaza The Muhafaza of Al-Biq
Head of Department	4	1	1	1	1
Chief tax inspector	7	2	2	2	1
Accountant	4	1	1	1	1
Inspector of Income Taxes	13	5	4	2	2
Inspector of Building Taxes	25	9	8	4	4
Inspector of Inheritance Taxes	6	2	2	1	1
Inspector of Indirect Taxes	5	2	1	1	1
Senior and Junior Clerks	25	8	7	5	5
Inspector	8	1	4	1	2
Stenographer	4	1	1	1	1
Janitor	8	2	2	2	2

Total 109 34 33 21 21

(a) Antoine Baroud, Michael Saleh, and Shahin Hatim (ed.), The Modern Collection of Lebanese Laws. (Decree No. 8343 dated December 30, 1961, art. 5), V, pp. 37 - 41.

Table 6

The Distribution Of Positions In The Muhafazas' Department of Economics. (a)

	Total		
	Muhafaza of North Lebanon	Muhafaza of South Lebanon	Muhafaza of Al-Biqqa
Head of Department	1	1	1
Senior or Junior Clerks	4	2	2
Stenographer	1	-	-
Controller	6	4	4
Assistant-Laboratory Technician	2	-	-
Janitor	1	1	1
Total	31	15	8

(a) Antoine Baroud, Michael Saleh, and Shahin Hatim (ed), The Modern Collection of Lebanese Laws, (Decree 8369 dated December 30, 1961, Annex No. 1, and Decree No. 8370 dated December 30, 1961, art. 1), I, pp. 13/2 - 13/11.

Table 7

Distribution of Positions In The Muhafazas' Department of Labour and Social Affairs. (a)

	Total	The Muhafaza of Mt. Leb.	The Muhafaza of North Leb.	The Muhafaza of South Leb.	The Muhafaza Al-Biqā
Head of Department	4	1	1	1	1
Inspector	8	3	3	1	1
Associate Inspector	8	3	3	1	1
Social Assistant	4	1	1	1	1
Senior clerk	2	1	1	-	-
Junior Clerk	2	-	-	1	1
Janitor	4	1	1	1	1
Total	52	10	10	6	6

(a) Antoine Baroud, Michael Saleh and Shahin Hatim (ed), The Modern Collection of Lebanese Laws, (Decree No. 8352 dated December 30, 1961, annex No. 1 and Decree No. 8353 dated December 30, 1961, art. 1), III, pp. 8/5 - 8/6 and pp. 8/9 - 8/10.

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