exceeding 2 years, a fine not exceeding ¥25,000, detention or minor fine. This Article, which punishes the crime of assault, is of course also related to crimes of assault and battery which result in actual injury, known in Japanese criminal law as Crimes of Wounding (Shogai no Tsumi), for which severer punishments are provided. Under Article 204, the punishment for the crime of wounding is penal servitude not exceeding 10 years or a fine not exceeding ¥25,000 or a minor fine. Under Article 205, if death is caused by wounding, the punishment is limited penal servitude for not less than 2 years. Limited penal servitude varies from one month to 15 years and includes both confinement in prison and performance of prescribed labor. Article 261 punishes with penal servitude not exceeding 3 years or with a fine not exceeding ¥25,000 or a minor fine the crime of damaging (destroying) or injuring an animate or inanimate thing, (other than public documents, private documents relating to rights or liabilities, or building or ship -- for which more severe punishments are provided in Articles 258-260, inclusive).

Of course people running "goretsuki" newspapers undoubtedly combine threats, intimidation, and violence and also act jointly and through the backing of the force of their gangster organizations. In such cases they are also punishable under the Law Relating to the Punishment of Acts of Violence, etc. (Boryoku-koi to Shobatsu ni Kan-suru Horitus), Law No. 60 of 1926. Article 1 of this Law provides that every person who has committed a crime of Article 208, par 1, (violence) Article 222, (threats) or Article 261, (destruction) of the Criminal Code by displaying the force of an organization or multitude (mob), by displaying force under the guise of an organization or multitude (mob), or displaying a weapon or as a joint act of several persons, shall be liable to penal servitude not exceeding 3 years or fine not more than ¥25,000. This Article also provides that every person who has habitually committed any of the crimes of the Articles referred to above (namely, violence threats, or destruction) shall be punished with the same punishment.

Article 2 of this same law provides that every person who with intent to obtain or cause to be obtained illegal pecuniary advantage (profit) has pressed for an interview or committed an act of forcible demand or intimidation by any of the methods of par 1 of the preceding Article shall be liable to penal servitude of not more than 1 year or fined not more than ¥5,000. This Article also provides that every person who has habitually and without justification pressed for an interview or committed an act of forcible demand or intimidation shall be punished in accordance with the preceding paragraph.

Article 3 of the same Law provides that every person who has supplied, offered or promised to supply money, goods, or other pecuniary advantage or service with an intent to have committed by any of the methods mentioned in Article 1, par. 1, a crime of Article 199 of the Criminal Code (homcide), Article 204 (wounding), Article 208, par 1, (violence without wounding) Article 222-223 (threats), Article 234 (forceful interference with the business of another), Article 260 (damage or destruction to building or ship), or Article 261 (damage, destruction or injury to an animate or inanimate thing), and every person who has knowingly received, demanded, or promised to receive such supply shall be punished with penal servitude not exceeding 6 months or fined not more than ¥2,500. Article 3 also provides that any person who has done any of the acts mentioned in the article with intent to cause the crime of Article 95 of the Criminal Code to be committed by any of the methods of Article 1, par 1, of this Law shall be punished with penal

servitude or imprisonment not exceeding 6 months or fined not more than ¥2,500. (Article 95 of the Criminal Code provides punishment of penal servitude or imprisonment not exceeding 3 years for crimes obstructing official business (Komu no Shikko wo Bogai-suru Tsumi), thus supplementing the chapter providing for the punishment of crimes against non-official business already discussed.) This Law for Punishment of Acts of Violence would seem to furnish an adequate legal basis for prosecution and punishment of "gorotsuki" newspapers and the gangster organizations which they serve.

Application of the Law

The following comments are based upon Japanese Court decisions applying the Law for Punishment of Acts of Violence, etc.

When several persons have jointly committed violence, it constitutes the crime of Article 1, par 1, of Law No. 60 of 1926, even though the backing of the force of an organization or multitude has not been used.

If a number of persons have parleyed with an adversary by displaying the force of an organization, but, upon seeing the refusal of the other party to comply with their demands, and his attempt to run away, have brought him back by force in order to continue the parley, they have committed the crime of violence by displaying the force of an organization.

If it is found that several persons have jointly perpetrated acts of violence and the case falls under Article 1, par 1, of the Law Relating to the Punishment of Acts of Violence, etc., Article 60 of the Criminal Code is not to be applied. (Article 60 of the Criminal Code provides that two or more persons who have cooperated in committing a crime are "joint" principals.)

Even though an organization exists for a legitimate purpose, if members thereof have used violence or threats by making use of the power of the organization, their act comes within the purview of Article 1 of the Law Relating to the Punishment of Acts of Violence, etc.

When several persons have jointly perpetrated the crimes of Articles 222 (threats) and 261 (destruction) of the Criminal Code, they are dealt with as for one crime, an infringement of Article 1, par 1, of the Law Relating to the Punishment of Acts of Violence, etc.

Crimes of Blackmail

There is one other chapter of the Penal Code which is closely related to crimes of intimidation. This is the chapter titled "Crimes of Fraud and Blackmail" (Sagi oyobi Kyokatsu no Tsumi). The word "Kyokatsu" may also be translated as "threat" or "intimidation". Article 249 of this chapter provides that every person who has intimidated and caused another person to deliver property shall be punished with penal servitude not exceeding 10 years. The Article also provides that the same punishment applies to a person who by the same method has gained an unlawful pecuniary advantage or enabled a third party to do so. Attempts of this crime of blackmail are also punished under Article 250 of the chapter.

Application of the Law

The following comments are based upon Japanese Court decisions.

The act of terrorizing another person by an intimation of an allegedly impending evil to be brought about by the act of a third person, thereby obtaining a delivery of property, constitutes blackmail. So a "gorotsuki" newspaper which received payments by means of threats of publishing libelous articles would be punishable for the crime of blackmail under Article 249 of the Criminal Code.

If by means of threats the offender has acquired a formal title for the delivery of property either by the injured party or by a third person and has then taken or attempted to take delivery of the property by such title, the crime of Article 249, par 2, is constituted when the formal title was acquired and regardless whether the delivery of the property had actually been taken or not.

The act of threatening a person and thereby causing him to deliver title deeds constitutes the crime of Article 249, par 1, irrespective of whether such act is perpetrated for the offender or for some other reason.

When a person has been intimidated to deliver material property, such as money, to the intimidator or to a third person, Article 249, par 1, of the Criminal Code should be applied.

The injured party in the crime of blackmail is always the owner of the property right affected by the crime. The person who is threatened need not necessarily be such owner but may be a person having relations of some kind with the said injured party.

A, for the purpose of illegally obtaining property, made B convey threats but failed to obtain his objective. There was no error in dealing with A for attempted blackmail and with B merely for the crime of intimidation.

When a person is notified that something disadvantageous to him will be published in a newspaper, the notification itself is sufficient to terrorize. In so far as the constitution of the crime is concerned, it is not necessary that the contents of the intended publication be made known to him.

If, for the purpose of blackmail, a person has mailed a letter intending to inspire another person with fear, and the letter has reached the addressee's place, the letter has been used. Therefore, even though the addressee failed to take notice of the letter's contents, the crime is nevertheless perpetrated.

The publisher of a newspaper containing articles injurious to the credit of a joint stock company threatened the director to the effect that the threats would be continued unless a monetary payment was made. The director filled with fear, directed a third person to advance money for the company and to pay it to the publisher, which was accordingly done. The party which has sustained pecuniary loss is the company, and the blackmailer has gained an illegal pecuniary advantage.

The threatened injury essential for the formation of the crime of blackmail need not necessarily be intended to materialize.

A series of articles relating to a person's misconduct were published in a newspaper for a blackmailing purpose. If a demand has been made for the expenses incurred in collecting data for the articles as a price for discontinuing their publication, and the said demand is complied with, it constitutes a crime of blackmail.

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
LEGAL SECTION

LEGAL COMMENTS

May, 1950

The Diet in its last session amended the important Nationality Law, the text of which is included herein. In the following article, the Chief, Legislative and Justice Division, Legal Section has given a summary of the salient points of the new Japanese Nationality Law:

Subject law was designed to replace the old Nationality Law, several provisions of which were in conflict with the new Constitution of Japan and with reform legislation implementing the principles of this Constitution. Such revision was, indeed, overdue, but had been held up by some reluctance to amend the Nationality Law before the Peace Treaty had been concluded. Due to the unforseen delay in the Peace negotiations, the Japanese Government felt, however that the unconstitutional provisions of the old law should be formally eliminated from the statute book since they had become invalid and inapplicable, and the actually existing gap should be filled. Subject law is strictly limited to this purpose and does not attempt to touch on problems the final solution of which will be affected by the coming Peace Treaty; thus it includes no provisions on the nationality status of Koreans, Formosans and Ryukyuans.

The main features of subject law may be summarized as follows:

a. The principle of the old law that a child shall be regarded as a Japanese if the father is a Japanese at the time of its birth has been maintained. This so-called jus sanjuinis is distinguished from the jus soli prevailing in the United States, according to which birth in the country is the decisive factor. This law has also in common with the old law the tendency to prevent double nationality and statelessness.

b. The most important change is connected with the new constitutional principle of essential equality of sexes. The former law made the nationality status of the wife dependent upon that of the husband. Marriage with a Japanese national automatically resulted in the acquisition of Japanese nationality by the wife, and loss of, or change in his nationality affected her status. Subject law eliminates all provisions of such nature and recognizes the independent status of the wife with regard to acquisition, change and renunciation of nationality. Art 6 (1) provides, however, for a "simplified" naturalization of the wife of a Japanese national. In her case the Attorney General may dispense with certain conditions otherwise required for naturalization, particularly that of a fixed period of residence in Japan.

c. The former rule that the nationality of a child follows its parents' nationality was considered contrary to the constitutional emphasis upon dignity of the individual. Therefore, automatic acquisition of the Japanese nationality for a child by virtue of recognition or adoption as well as the effect of acquisition or loss of nationality by father or mother upon minor children has been abolished and the child's nationality status has become independent.

d. All provisions connected with the old semi-feudal house system were omitted as a consequence of the abolition of this system in the revised civil code.

e. The former Nationality Law authorized the Attorney General to permit privileged naturalization of an alien who had rendered specially meritorious services to Japan, "subject to the Imperial sanction." Art 7 of the new law retains this authorization, but because of the constitutional limitations of the Emperor's position, replaces "Imperial sanction" by Diet approval.

f. The former law discriminated against naturalized citizens who were not admitted to certain high positions in the government, such as Ministers of State, members of the Diet or President of the Supreme Court. The new law has no such provision which violates the principle of equality before the law.

g. The requirements for renunciation of nationality have been relaxed. In no case is the approval of the Attorney General a prerequisite for renunciation. It goes without saying that the restriction on renunciation of nationality in connection with military service was omitted as contrary to the abolition of the Armed Forces in the Constitution.

Subject law is, on the whole, an exceptionally good piece of legislation. It reveals the conscientious effort of the drafters to eradicate unconstitutional and obsolete elements of the former Nationality Law.

According to Art. 4 (1) one of the general requirements for naturalization is residence in Japan for at least five consecutive years. In the case of a husband of a Japanese national the Attorney General may reduce this period to three years (Art. 5 (1)), while a wife of a Japanese national may be naturalized even without her having resided in Japan (Art 6 (1)).

It may be noted that an interesting constitutional problem arises in connection with Art. 10, Par. 1, which reads that a Japanese national having a foreign nationality may renounce his or her nationality. According to Art. 22, Par. 2 of the Constitution, freedom of all persons to move to a foreign country and to divest themselves of their nationality shall be inviolate. The language of this provision does not imply that the right to renounce one's nationality is dependent upon acquiring a foreign nationality. Therefore, the condition of such acquisition in Art 10 of subject law could be considered contrary to Art. 22 of the Constitution. There is no doubt that a person who would want to renounce his Japanese nationality without acquiring a foreign nationality could not achieve such purpose under this law. The Japanese government, on the other hand, refers to Art. 98, Par. 2 of the Constitution which demands the faithful observation of the treaties concluded by Japan and of "established laws of nations." The Hague Convention of April 12, 1930, which the United States declined to sign contained certain agreements on questions relating to the conflict of nationality laws. One of the main objectives of the Convention was to discourage both double nationality and statelessness. Thus Art. 7 of the Convention provides that insofar as the law of a State provides for the issue of an expatriation permit, such a permit shall not entail the loss of the nationality of the State which issues it, unless the person to whom it is issued posesses another nationality or unless and until be acquired another nationality. Furthermore, the Conference adopted a unanimous recommendation to the effect that it is desirable that in regulating

questions of nationality, States should make every effort to reduce, so far as possible cases of statelessness. Still, it should be noted that the unusual case of a person renouncing his nationality with the intention to remain stateless has not been considered in the Convention, as far as can be seen, and that the above mentioned Art. 7 does not exactly cover it. Such a case recently occurred with an American citizen.

In the United States where the right to expatriation is most strongly advocated, it has been recognized and is now provided in the Nationality Act of 1940 that citizens could not expatriate themselves and remain permanently in the country. The right is conditioned upon actual removal abroad. Obviously the assumption here too, is that such removal will eventually result in the acquisition of a foreign nationality. Japan signed the Convention, but did not ratify it. While undeniably the tendency toward avoiding statelessness has almost become a principle of international law, there remains a doubt whether such principle extends to instances in which a person is not being forced into statelessness, but chooses it on his own volition. The possible conflict between a principle of international law and a provision of the Constitution of Japan may have to be solved by a future decision of the Japanese Supreme Court.

THE NATIONALITY LAW
(Public Law 147, enacted May 4, 1950)
Effective July 1, 1950

Article 1. The conditions necessary for being a Japanese national shall be determined by the provisions of this Law.

(Acquisition of nationality by birth)

Article 2. A child shall, in any of the following cases, be a Japanese National
(1) When, at the time of its birth, the father is a Japanese national;
(2) When the father who died prior to the birth of the child was a Japanese national at the time of his death;
(3) When the mother is a Japanese national in case the father is unknown or has no nationality;
(4) When both parents are unknown or have no nationality in a case where the child is born in Japan.

(Naturalization)
Article 3. One who is not Japanese national (hereinafter referred to as "an alien") may acquire Japanese nationality by naturalization.
2. The permission of the Attorney-General shall be obtained for naturalization.

Article 4. The Attorney-General shall not permit the naturalization of an alien unless he or she fulfills all of the following conditions:
(1) The one has had a domicile in Japan for five or more years consecutively;
(2) That one is twenty years of age or more and a person of full capacity according to the law of his or her native country;
(3) That one is a man or woman of upright conduct;
(4) That one has property or ability enough to lead independent living;

(5) That one has no nationality, or one's acquisition of Japanese nationality will cause one to lose one's nationality;
(6) A person who, since the enforcement of the Constitution of Japan has never plotted or advocated, or formed or belonged to a political party or other organization which has plotted or advocated, the overthrow of the Constitution of Japan or the Government existing thereunder.

Article 5. With respect to an alien who falls under any one of the following items, and has presently a domicile in Japan, the Attorney-General may permit the naturalization of the alien even when the said alien does not fulfil the condition mentioned in item (1) of the preceding Article.
(1) One who is the husband of a Japanese national and has a domicile or residence in Japan consecutively for three years or more;
(2) One who is the child of one who was a Japanese national (excluding child by adoption) and has a domicile or residence in Japan consecutively for three years or more;
(3) One who was born in Japan and who either has a domicile or residence in Japan consecutively for three years or more or has father or mother (excluding father and mother by adoption) born in Japan;
(4) One who has had a residence in Japan consecutively for ten years or more.

Article 6. With respect to an alien who falls under any one of the following items, the Attorney-General may permit the naturalization of the alien even when the said alien does not fulfill the conditions mentioned in items (1), (2) and (4) of Article 4;
(1) The wife of a Japanese national;
(2) One who is a child (excluding child by adoption) of a Japanese national and has a domicile in Japan;
(3) One who is a child by adoption of a Japanese national and has had a domicile in Japan for one year or more consecutively and was a minor according to the law of its native country at the time of the adoption;
(4) One who has lost Japanese nationality (excluding one who has lost the Japanese nationality after one's naturalization in Japan) and has a domicile in Japan.

Article 7. With respect to an alien who has especially rendered meritorious service to Japan, the Attorney-General may, notwithstanding the provision of Article 4, permit the naturalization of the alien with the approval of the Diet.

(Loss of nationality)

Article 8. A Japanese national shall lose his or her Japanese nationality when he or she acquires a foreign nationality at his or her own wish.

Article 9. A Japanese national who has acquired a foreign nationality by reason of his or her birth in the foreign country shall lose Japanese nationality retroactively as from the time of birth, unless the Japanese national manifests his or her volition to reserve his or her Japanese nationality according to the provisions of the Family Registration Law (Law No. 224 of 1947).

Article 10. A Japanese national having a foreign nationality may renounce his or her Japanese nationality.

2. The renunciation of nationality shall be made by notifying to the Attorney-General.

3. One who has renounced his or her nationality shall lose Japanese nationality.

(Procedure for renunciation of nationality)

Article 11. The application for permission of naturalization, or the notification of renunciation of nationality, shall be made by the legal representative in his or her behalf, in case the person who intends to become naturalized or renounce nationality is under fifteen years of age.

Article 12. The Attorney-General shall, when he has permitted naturalization or accepted notification of renunciation of nationality, announce to that effect by public notice in the Official Gazette.

2. The naturalization or renunciation of nationality shall come into effect as from the day of the public notice under the preceding paragraph.

Article 13. Other than those provided for in the preceding two Articles, the procedures concerning naturalization and renunciation of nationality shall be prescribed by the Attorney-General.

Supplementary Provisions:

1. This Law shall come into force as from July 1, 1950.
2. The Nationality Law (Law No. 66 of 1899) shall be abolished.
3. The applications for permission of naturalization or the applications for permission of restoration of nationality made under the provisions of the old Nationality Law before the enforcement of this Law, shall be regarded as applications for permission of naturalization made under the provisions of this Law.
4. The applications for permission of renunciation of nationality made before the enforcement of this Law under the provisions of the old Nationality Law shall be regarded as the notifications of renunciation of nationality made under the provisions of this Law.
5. A child whose parent was naturalized in Japan prior to the enforcement of this Law and who has acquired Japanese nationality under the provision of Article 15 paragraph 1 of the old Nationality Law shall be regarded as having naturalized in Japan with respect to the application of the provisions of Article 6 item (4). The same shall apply to one who, prior to the enforcement of this Law, was adopted by a Japanese national or became the incoming husband (nyufu) of a Japanese national.

K E Y

for

THE LAW CONCERNING LOCAL AUTONOMY

and

Other Laws and Cabinet Orders Material to the Governments

of

PREFECTURES, CITIES, TOWNS AND VILLAGES

OF JAPAN

Prepared for

The Legal and Government Officers

of

Civil Affairs Teams

in Japan

July, 1949

COMMENTARY

The purpose of the Key is to provide the Legal and Government Officer and others with ready reference material both on the Chihojichiho and related data for local governments.

The four main parts of the Key are a legal brief of the Law and the Cabinet Order. The appendix is a compilation of some essential addenda, especially the careful enumeration of many important related laws and cabinet orders which add to the structure and augment the powers of the local governments. It is undesirable at this writing to include specific material on civil service because the law on this subject has not been passed by the Diet. It is sufficient that the principles set forth in the National Public Service Law be adhered to in discussion. Without knowing much about any civil service law, emphasis in discussion can be placed upon the very important principle that an adminstration has the duty of enforcing the existing laws on the books without making concessions and compromises.

It is essential that the Legal and Government Officers in their contacting and carrying on official relations with each of the local governments in their respective spheres of jurisdiction do so directly with each of them. Hence, in dealing with the city government, it is desirable to deal with city officials. It is not desirable to call in the governor or prefectural governmental officials and ask them to bring in the mayors or other city officials and assemblymen. Dignity and respect for the city, town and village officials cannot be either obtained or maintained in their respective jurisdisctions by causing them to be under continuous subservience of the prefectural government. Only in the most urgent cases and in those of impractical communications should the direct contacts be suspended. It is desirable to build up the responsibilities and character of the cities, towns and villages.

Such local government organizations as the Governors' Conference, the Association of Prefectural Chairmen, the Mayors' Congress of All Japan, the National Association of Municipal Chairmen and the National Town and Village Association should be fostered or encouraged to develop better governments and higher professional standards. Moreover, some guidance and encouragement can be given to civic organizations or groups.

The program on Local Autonomy is designed as guidance for the Japanese people and for their elected representatives and other officials on (1) the essential principles of representative government, and on (2) the purpose and character of the Law Concerning Local Autonomy, which is the organic act establishing the normal powers and structure of the governments of the prefectures, cities, towns and villages.

The giving of information to the Japanese on the essentials of representative government is continuous to the end of the Occupation. The Program on Local Autonomy provides a written and oral means of accomplishing this continuous task of guidance for the local levels of government.

The decision regarding a local government program in January 1946 was that the new law resulting from a codification and alteration of the then existing laws or Imperial Ordinances at the beginning of the Occupation would be brought directly to the Japanese people and officials of the local governments one level of government at a time. The particular phase for the prefectural governments was completed in the 7 months period, March-September 1948. The particular phase for the city governments will be completed this year. The phase for the towns and villages is planned to be completed next year.

The three phases are by no means an end in themselves. One cannot look upon the completion of any one of these three phases or on the completion of all three, for that matter, as an end in itself. Each phase focuses attention on different areas of government and so the work must continue on "in whole or in part" with as much emphasis as the known conditions will take in the prefecture, city, town or village.

TABLE OF CONTENTS

page

1. Citizenship - As Defined In The Constitution 4
2. The Mayor 13
3. The City Assembly 20
4. Committees, Commissions and Boards
   A. Election Administration Committee 30
   B. Public Safety Commission 36
   C. Local Boards of Education 40
   D. Inspection Commission 46

APPENDIX

1. City Planning 49
2. Notes On The City Government Of New York 56
3. Suggestions For A Mayor's Report 59
4. Zoning 62
5. Laws, Imperial Ordinances and Cabinet Orders 65

CITIZENSHIP - AS DEFINED IN THE CONSTITUTION

Note: All references are to Articles in the Law Concerning Local Autonomy, Law No. 67, 1947, as amended, unless otherwise noted.

RIGHTS ENUMERATED

1. To equality under the law regardless of sex, religion, race, social status or family orgin. Article 14, Constitution.

2. To choose public officials and to dismiss them. Article 15.

3. To universal adult suffrage in electing public officials. Article 15.

4. To a secret ballot. Article 15.

5. To refuse to answer publicly or privately for the choice he has made. Article 15.

6. To petition peacefully for redress of damage. Article 16.

7. To petition peacefully for removal of public officials. Article 16.

8. To petition peacefully for enactment, repeal or amendment of laws, ordinances or regulations and other matters. Article 16.

9. To not be discriminated against for sponsoring a petition. Article 16.

10. To sue state or public entity for damage occasioned by an illegal act of a public official. Article 17.

11. To be free of bondage or involuntary servitude except as punishment for a crime. Article 18.

12. To freedom of thought and conscience. Article 19.

13. To freedom of religion. Article 20.

14. To freedom from being compelled to participate in any religious act, celebration or rite. Article 20.

15. To freedom of speech, assembly, association and any other form of expression. Article 21.

16. To freedom from censorship. Article 21.

17. To freedom from disclosure of a private communication. Article 21.

18. To choose and change residence. Article 22.

19. To choose and change occupation. Article 22.

20. To change nationality and divest nationality. Article 22.

21. To academic freedom. Article 23.

22. To equality of all rights between the marriage partners. Article 24.

23. To choice of spouse. Article 24.

24. To equality of opportunity in education. Article 26

25. To a free education for children. Article 26

26. To work. Article 27.

27. To freedom from exploitation in the case of a child. Article 27.

28. Of workers to organize and bargain collectively. Article 28.

29. To own or hold property. Article 29.

30. To a definition of property rights. Article 29.

31. To freedom from expropriation of property unless for public use and payment of just compensation. Article 29.

32. To freedom from criminal penalty affecting life or liberty unless by due process of law. Article 31.

33. To free access to the courts. Article 32.

34. To freedom from arrest except upon a warrant issued by a judicial officer which specifies the offense committed except where the crime has been committed in the presence of the arresting officer or he has probable reason to believe that a crime has been committed. Article 33.

35. Upon arrest to be immediately informed of the charges against him. Article 34.

36. Upon arrest to the immediate privilege of counsel. Article 34.

37. To freedom from detention without adequate cause. Article 34.

38. To an open court hearing accompanied by counsel in order to determine whether or not there is just cause for his detention. Article 34.

39. To freedom from search and seizure in his home, his papers and effects except upon a warrant issued for adequate cause and describing the place to be searched and the things to be seized. Article 35.

40. To freedom from torture or cruel punishment by any public officer. Article 36.

41. To a speedy and public trial by an impartial tribunal. Article 37.

42. A full opportunity to examine all witnesses. Article 37.

43. A right of compulsory process in order to obtain witnesses at public expense. Article 37.

44. The right of counsel at all times and in the event that the accused is financially unable to provide himself with counsel, the state shall do so. Article 37.

45. Not to testify against himself. Article 38.

46. To a confession not accompanied by duress, torture or threats, or prolonged arrest or detention. Article 38.

47. To not be convicted where the only proof against him is his confession. Article 38.

48. Not to be held liable for an act which was lawful at the time it was committed. Article 39.

49. Not to be held liable for an act of which he has been acquitted. Article 39.

50. Not to be placed in double jeopardy. Article 39.

51. In the event of unlawful arrest or detention, to sue the state for redressas provided for by law. Article 40.

DUTIES ENUMERATED AND DISCUSSED

There are definite Constitutional provisions whih enjoin every individual from abusing the specific freedoms and rights enjoyed under the Constitution (Article 12), and there is a positive injunction that they (the rights) be used for the public welfare. Article 12.

The right to life, liberty and the pursuit of happiness is a supreme consideration but it must not interfere with the public welfare. Article 13.

The basic tenet of all democratic government is that every right has a corresponding duty and the onverse that every duty has a corresponding right.

The emphasis in the Constitution is placed on the individual dignity of each person regardless of sex, social position, creed or race. If the individual, therefore, fails in his duties, he will suffer a gradual encroachment on his rights until they disappear entirely from his vision. Modern history is replete with such instances. It must be realized that in every government that ever existed there is a group or groups of persons who seek power for its own sake. These persons toil every day in the year for their special ends. It is imcumbent, therefore, on every citizen to strive diligently to preserve his rights by a constant attention and interest in his duties.

If the enunciated rights existed without the corresponding duties a state of anarchy would develop and the people in their confusion would seek out a savior. This has been the experience of mankind.

With these thoughts in mind, let us examine the duties placed upon the citizen by the Constitution by a proper balance between rights and responsibilities the individual has.

1. Equality under the law regardless of sex, religion, race, social status or family origin. Article 14.

This is a right granted by the Constitution. It places certain specific duties on each citizen:

a. To discourage actively, by both the ballot and any other form of expression, any attempt by any group or public official to discriminate against a person or group of persons because of sex, religion, race, etc.

b. In the use of the voting privilege to ignore appeals based on the candidates' sex, race, religion or social status.

2. The right to choose officials (Article 15) carries with it the duty to analyze intelligently the qualities needed for the office and, the candidate's fitness for the office under consideration.

3. The right to dismiss public officials (Article 15) and the right of petition for redress of damages, the removal of public officials (Article 16) is accomplished by means of the "recall." But this right must be exercised with great care. The duty of the citizen here is to investigate:

a. The source of the complaint against the public official; has the group who are calling for the recall of a certain official given the real reason to the public or have they some ulterior motive which they hide from the petioners and voters?

b. It must be remembered that most of the candidates for office at all levels of government have had no experience with democratic government. They are bound to make mistakes in judgment. This fact must be recognized by the voters. Often times those who are most critical would do much worse than the incumbent. No one expects that the elected officials will be 100% perfect. Mistakes of judgment and misinterpretation of laws and regulations are made every day in democratic countries the world over. The voter should demand integrity and diligence in his public officials, accompanied by reasonable efficiency, but he cannot expect that honest mistakes will not be made.

This provision is implemented by Articles 80, 83 and 86 of the Law Concerning Local Autonomy. The authentic signatures of one third of the registered voters are required. Signatures must be in hand writing of each persn. Fraud or duress must not be used in obtaining them. Injunction against holding of a recall election can be obtained when irregularities can be proved. Law No. 81 of 1948.

c. There is such a thing as a "call" to public office. In fact it is a positive duty. Failure to obey this call is a betrayal of the Community. Many men in communities all over Japan have refused to be a candidate for office. They fear the criticism of opposition groups. This fear is greater than their loyalty to their communities.

These men are admired, respected and are natural leaders, but they refuse when their friends urge them to be a candidate. If this situation persists then the worst elements in the country will assume these posts and little by little the great rights guaranteed by the Constitution will be but a huge farce.

4. The right to petition peacefully for enactment, repeal or amendment of laws, ordinances or regulations and other matters provided in Article 16 of the Constitution is implemented in Article 74 of the Law Concerning Local Autonomy. Article 74 requires the valid signatures of one fiftieth of the voters. An amendment to the Law Concerning Local Autonomy provides that by-laws relating to the levy and collection of taxes, allotted charges, rents or fees are exempt from such petitions.

5. The right not to be discriminated against for sponsoring a petition as provided in Article 16 of the Constitution does not mean that sponsors of petitions cannot be arrested when they violate the law or cabinet orders. When sponsors forge names to the petition, or present a petition to the election committee on which names were signed by others than the actual, they are subject to the criminal law for so doing.

6. Freedom of religion is guaranteed to all.

Freedom of religion means that the individual has the right to adopt any religious belief that he wishes. However, he is limited in the

practice of his religious belief if the practice thereof is contrary to the public welfare or the public good.

7. Freedom of assembly, association, speech and press are guaranteed. Article 21.

a. The corresponding duty here concerns itself in the abuse of of the right. An assembly of 5,000 persons in an assembly building which according to engineering standards could house only 2,000 would be a clear abuse of the right. Accordingly, in the interest of the public a City Safety Commissioner could properly deny the application for such a meeting. Moreover, a group can be forced to file a notice of a meeting stating all the particulars involved. This is so because the public has a right to be protected. For example, certain groups jammed the railroad stations to meet returning repatriates preventing them from joining their families and prevented the traveling public to pass the gates to board trains for which they had purchased tickets. Such an assembly is on its face unlawful as it violates the rights of the general public.

b. With regard to freedom of association: evidence at a trial that the accused on many and diverse occasions was seen in the company of known and formerly convicted criminals would be competent evidence at his trial, a suming that such evidence was germane to the charge. Freedom of association, the joining together into societies, clubs, and the like for cultural, athletic or political purposes is legal. However, an association created for any purpose contrary to law would be illegal, for example, an association whose aim is to assassinate public officials.

c. No amount of freedom of speech would allow a spectator at a Kabuki play to yell "fire, fire" thus creating a stampede which would kill and injure scores of persons. If prosecuted for such an offense, he could not raise the defense of his constitutional right of free speech.

For a person to make a speech advising others to do an unlawful act, for example, attack the police, attack tax officials, burn down a building, etc., are all outside the sphere of freedom of speech and such talks are violations of the criminal laws.

d. Freedom of the Press is not so absolute as to permit a newspaper to falsely libel a Judge of the Courts by stating that he accepted bribes in rendering a favorable court decision in a certain case.

e. The right of free expression in general is conditioned by the following rule: "That when the words spoken or printed so <u>imminently</u> threaten <u>immediate</u> interference with the lawful and pressing purposes of the law that an immediate check is required to save the country."

8. Article 24 states:

Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual cooperation with the <u>equal</u> rights of husband and wife as a basis.

With regard to choice of spouse, property rights, inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family, laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes.

9. The right to receive an equal education. Article 26.

The right to receive a free compulsory education. Article 26.

It is the duty of the citizen to support the schools by honest, fair and punctual tax payments.

Moreover, he has, too, the positive duty to examine carefully the candidates for the Board of Education and to diligently attend and participate in the Parent-Teachers Association in his community.

10. The Citizen has the <u>right</u> and the <u>duty</u> to work. Article 27.

The Citizen has the right to work when work is available. Jobs are provided by private capital. The government cannot supply everyone a job. The government, if financially able, should supply relief to those who cannot find work and have no resources of their own. Where jobs are available, the citizen has the duty to accept a job rather than government relief.

The right of workers to organize and bargain collectively is guaranteed. Article 28.

a, If the worker is a member of a labor union his attendance at union meetings, participation in discussions and careful choice of union officials to represent him are incumbent duties.

He should be careful in his selection of officials to the end that honest, diligent officials are placed in office who have a real and abiding interest in the welfare of the workingman and not agitators who, through hidden motives, seek labor strife in order to destroy the national economy so that they might enslave all the citizenry.

In voting on a strike issure he must evaluate the facts in the situation and not be swayed by mere oratory and personality of the speakers.

He must be cognizant of the management side of the controversy, for a ruinous strike can destroy the working place, bankrupt the employer and leave him no place of employment.

11. The right to own or to hold property is inviolable. Article 29.

Property is the legal right of a person to possess, own, control and use such valuable things as land, building, automobiles, stocks, bonds, money and mortgages, in fact anything that has value.

The ownership of property in an individualistic society is basic.

12. The people shall be liable to taxation as provided by law.

Taxation is the act of levying and collecting compulsory contributions to the government for public purposes.

It is the duty of the citizen to pay his taxes honestly, fairly and punctually.

Moreover, it is his duty to inquire how the taxes are spent; to vote against those officials who permit waste of the taxpayer's money.

13. No person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed except according to procedure established by law.

a. Life is the most fundamental right of all. Life can only be taken under the duly appointed legal procedure.

b. Liberty includes:

(1) Freedom from bodily restraint.

(2) Inviolability of the body.

The detention of an alleged accused for a long period of time without a court hearing demonstrates a violation of this provision on bodily restraint.

On inviolability of the body, the compulsory vaccination and sterilization of persons are two examples of the invasion of personal liberty which are permitted. Here, the duty of safeguarding public health is superior to the right of liberty.

14. No person shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offense with which the person is charged, unless he is apprehended while the offense is being committed. Article 33.

The right of all persons to be secure in their homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant issued for adequate cause and particularly describing the place to be searched and things to be seized, or except as provided in Article 33.

The purpose here is to protect the individual and his home.

Evidence secured in violation of these provisions is generally inadmissible.

15. No person shall be arrested or detained without being at once informed of the charges against him.

"Article 34. No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel."

This restates in effect the writ or order of "habeas corpus."

If the accused is being held legally the court can order him returned to jail or released on bail until he is tried. If he is being held unlawfully he must be released at once. A procurator or other public official who refuses to recognize such an order is guilty of contempt and may be punished.

Neither the legislature nor the executive branch of government can suspend this order of habeas corpus.

16. The infliction of torture.

"Article 36. The infliction of torture by any public officer and cruel punishments are absolutely forbidden."

The provision here is primarily designed to prevent confessions obtained by physical force. However, it applies also to post-trial

confinement as well.

17. The right of counsel (Article 37) is very important.

18. The accused shall enjoy the right to a speedy and public trial. Article 37.

Confession made. . . . .after prolonged detention shall not be admitted into evidence. Article 38.

a. The supreme court in Japan has held in one case that where detention for a period of 110 days was followed by a guilty plea in open court, that such a plea was influenced by the unlawful detention and thereby violated Article 38.

b. A court ruling that the proceeding would take place with all the spectators being excluded would violate this provision with regard to a public trial.

19. No person shall be compelled to testify against himself. Article 38. Confession made under compulsion, torture or threat or after prolonged arrest or detention shall not be admitted in evidence.

No person shall be convicted or punished in cases where the only proof against him is his own confession.

20. Article 39. No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted, nor shall he be place in double jeoperdy.

a. This restates the "ex post facto" doctrine so familiar in Anglo-American jurisprudence.

b. The doctrine applies not only to making an action a crime that was not a crime when committed but also is applicable where the punishment for a crime is increased after its commission.

Even if there is an alteration in the situation, such as a change by law in the rules of evidence, to a party's disadvantage, it is said to be "ex post facto" and hence invalid. Hence it is that the legislature when increasing punishment for a certain offence makes provision for offenses committed after a certain date.

c. The Japanese conception of "double jeopardy" differs in meaning from that of the English or American idea of "double jeopardy."

In Japan an accused can be tried in the District Court and found not guilty. Then the procurator can take an appeal to the higher court and the latter may find the accused guilty. Theoretically the procurator could get a "not guilty" in the district court; a "not guilty" in the higher court and then on final appeal to the Supreme Court get a guilty verdict. (The procurator, therefore, is in the same position as a batter in a baseball game. He gets three strikes at the ball.)

In England or the U.S. a "not guilty" finding in the first instance would settle the case as to the accused, at that point once and for all time. The appeal by the procurator to the higher court would definitely and without question be "double jeopardy."

A procurator under the English or American system may

appeal from a "not guilty" but where he does so the accused has nothing whatever to do with the matter. The procurator is appealing so as to get an authoritative ruling on the law. Insofar as the accused is concerned, he is immediately released upon the finding of a "not guilty."

THE MAYOR

Note: All references are to Articles in the Law Concerning Local Autonomy, Law No. 67, 1947, as amended, unless otherwise noted.

ELECTION, QUALIFICATIONS AND TENURE

The chief executive officers of all local public entities shall be elected by direct popular vote within their several communities. Article 93, The Constitution of Japan.

A city shall have a mayor whose term of office is four years. Articles 139 and 140.

The mayor shall be elected by the vote of the electors from among such persons as are eligible. Article 17.

A person must be at least twenty-five years of age to be eligible for the office of mayor. Article 19.

A person who has been adjudged incompetent or quasi-incompetent or who has been sentenced to imprisonment with or without hard labor and has neither finished the execution of such punishment or has ceased to undergo the same shall not be eligible to be elected as a mayor. Article 20.

Procedure for the election of a mayor is contained in Chapter IV of the Law Concerning Local Autonomy. Article 204.

The mayor is entitled to a salary and reimbursement for traveling expenses in an amount fixed by by-law.

The mayor cannot concurrently be:

(1) A member of the Diet;
(2) A member of an assembly of a local public body;
(3) A paid official of a local public body;
(4) An employee in regular service subject to the National Public Service Law;
(5) A member of a Board of Education;
(6) A member of an Inspection Commission;
(7) A member of a Public Safety Commission;
(8) Generally educational public service personnel.
Articles 20, 21, 141 and 196.
Articles 22 and 44, The Police Law, Law No. 196, 1947, as amended.
Article 102, National Public Service Law, Law No. 120, 1947, as amended.
Law for the Special Regulations concerning Educational Public Service, Law No. 1, 1949.
Article 10, Board of Education Law, Law No. 170, 1948.

The mayor cannot enter into a contract with the local public body or with any person who has received a contract or order for work from the governor, and the city of which he is mayor is to pay the expenses; likewise he cannot be an officer of a corporation who has a contract with the city or a contract to perform in which the city is to pay the expenses. Article 142.

A mayor automatically becomes ineligible to hold office:

(1) If he has been adjudicated incompetent or quasi-incompetent.
(2) If he has been sentenced to imprisonment without hard labor or to any severe punishment.
(3) If he has been sentenced for a fine or conviction of an election offense.
Articles 127 and 143.

The election administrative committee determines the ineligibility of a mayor to hold office except when automatically ineligible. Article 143.

The mayor can resign upon giving 20 days notice to the chairman of the City Assembly unless the latter body waives the time period. Article 145.

If one-third of the electors sign a petition for dismissal of the mayor and present it to the election administration committee an election must be held and if a majority of the electors vote in favor of the recall then the mayor shall vacate his office. This demand for dismissal shall not take place within one year from the time he assumed office or the date of a previous vote of dismissal. If his election was uncontested then the one year exception does not apply. Articles 81, 82, 83 and 84.

If the mayor in his capacity as a national government agent contravenes the law or the decision of the competent minister or the governor of his prefecture finds that he has neglected the supervision or execution of the national affairs, the governor may send a statement of charges to the mayor and order corrective action within a fixed time. If the mayor fails to take action the governor may request the District Court for a ruling ordering the action desired and notify the mayor of this action. The Court may render a decision of justification and order the mayor to perform, if the mayor still refuses the governor may ask for an order of confirmation, when, after rendered, the governor may execute the affairs in place of the mayor or remove the mayor from office. Article 146.

An appeal to the High Court against removal as prescribed in the preceding paragraph may be made within thirty days from the date of removal. An appeal will not suspend the removal but if sustained he shall not be, from the date of the decision of the appeal, disqualified from holding a local public office or a local national office for two years, a disqualification which occurs if the mayor is removed from office under the provisions of the preceding paragraph. Article 146.

In cases in which the mayor is changed, the predecessor shall turn over the affairs of the office to his successor within twenty days from the day of retirement.

If a mayor is concerned in a court matter which involves his holding of office he does not vacate the office until a final decision has been made except in the procedure prescribed in above two paragraphs. Article 144.

If a vote of non-confidence has been passed by an assembly the mayor must dissolve the assembly within ten days or resign; likewise he must resign if there is a vote of non-confidence in the first meeting of the new assembly after a previous vote of non-confidence. Article 178; Article 122, The Cabinet Order Concerning the Enforcement of the Local Autonomy Law, Cabinet Order No. 16, 1947.

In the event of a disability on the part of the mayor, his duties

devolve on the deputy mayor. Where there are two or more deputy mayors, the mayor may order one of them to assume mayoralty duties. If the mayor does not do so he who is senior in grade shall assume office. If the seniority is equal then he who is older in age will assume the post. If they are equal in age lots will be drawn for the office. Article 152.

APPOINTMENTS

The mayor shall apoint a deputy mayor, a treasurer and an assistant treasurer, if provided for by by-law, with consent of the assembly, but they are not closely related to the mayor. Articles 162 and 169.

Local officials of the city are appointed and dismissed by the mayor. Articles 171 and 172.

The mayor shall appoint members of the Welfare Commissioner Nomination Conference. Article 8, Welfare Commissioner Law, Law No. 198, 1948.

The mayor shall give his opinion as to the appointment of members to the Welfare Commissioner Council. Article 20, Welfare Commissioners Law, Law No. 198, 1948.

The mayor shall appoint with the consent of the assembly a public safety commission which will be under his jurisdiction. Articles 43 and 44, The Police Law. Law No. 196, 1947

If a city determines by by-law to have inspection commissioners the mayor shall appoint them with the consent of the assembly. Article 196.

The mayor may appoint standing or special expert committees who will be experts and will make investigations of affairs under the jurisdiction of the mayor. Article 174.

POWERS AND RESPONSIBILITIES

The mayor shall coordinate and represent the city. Article 147.

Coordinate here in the American sense means to act in an executive capacity. Specifically, the mayor must see that regular and special sessions of the city assembly are called; that an agenda is presented for discussion; that necessary sections of the city government are properly organized and function; that various boards, committees, commissions and other bodies he has appointed hold regular session; that there is an interchange of information; that certain persons and boards, committees, and commissions are held responsible; that authority is properly delegated; and that the various groups are apprised of their responsibility.

Represent means that the mayor can be the agent or delegate for the city. The mayor is responsible for presenting the city's problems in a clear, logical fashion. Article 147.

The mayor shall administer and be responsible for the affairs of the city including affairs required by national laws, cabinet orders and prefectural ordinances. Article 148.

The mayor is responsible for:

(1) Carrying into effect an expenditure made for a certain purpose by the City Assembly;
(2) Preparing and presenting administration's bills to be decided on by the City Assembly;
(3) Managing all city property;
(4) Ordering payment, giving receipts and supervising accounts;
(5) The official instruments and documents;
(6) Levy and collection of rents, fees, local taxes, allotted charges, entrances fees or statutory labor in accordance with laws, cabinet orders or resolutions of the assembly;
(7) The execution of all other affairs of the city;
(8) All matters which falls within his power under laws and ordinances. Article 149.

The mayor may delegate a portion of the affairs within his power to other officials either permanently or temporarily. Article 153.

A mayor may have delegated to him by the governor certain of the governor's powers and the mayor may be called upon by the governor to assist him in the execution of his affairs. Article 153.

The mayor is subject to the direction and supervision of the governor in administrative affairs which he executes as an agent of the national government. Article 150.

The mayor, who commits unlawful or ultra vires acts, is liable to have them enjoined, prohibited, revoked or invalidated by order of the inspection commission, or if necessary the Supreme Court upon demand of the inhabitants. Article 243-2.

With regard to the various sections in the city's administration the mayo may create as authorized by by-laws any necessary divisions thereof for the purpose of greater efficiency in handling. This applies to Finance, Welfare, Education, Economics, Construction, Communications, Water Service, Health, Labor and Fisheries. Article 158.

The mayor has authority to establish branch city offices for the carrying on of city affairs as authorized by by-law. Article 155.

The mayor may direct and supervise public bodies for the purpose of adjustment and coordination. Article 157.

The mayor shall direct and supervise the officials who are his auxiliary organs, such as the deputy mayor and treasurer. Article 154.

The mayor may annul or suspend the final decision of any administrative office under his supervision if the decision contravenes regulations or is ultra vires. Article 151.

A mayor may enact any regulations with respect to such affairs, as come under his powers as long as such regulations do not contravene any laws or authorized ordinances. The penalty generally shall not exceed ¥ 2,000. Article 15.

The mayor shall draw up an estimate of annual revenue and expenditure for each fiscal year and obtain a resolution of the assembly prior to the beginning of the fiscal year and such supplemental estimates as might be required. Articles 234 and 235.

DECLASSIFIED E.O. 14652 SEC. 3(E) AND 3(B) OR (E) NNDG # 775 072

The mayor shall deliver a copy of the resolution of the assembly of the estimates to the treasurer and the mayor shall order any payment except the Board of Education funds. Article 232; Articles 59 and 60, The Board of Education Law, Law No. 170, 1948, as amended.

The mayor shall prepare a financial statement of the city at least twice a year pursuant to by-law and make public the same. Article 244.

The mayor shall receive from the treasurer the final documents in reference to the receipts and expenditures at the end of the fiscal year, deliver them to the inspection commission for examination, receive its opinions and transmit them to the assembly, then give a report to the governor and make it public. If no inspection commission, the mayor makes the examination. Article 242.

The mayor shall audit the receipts and expenditure of the city once a month if there is no inspection commission, if an inspection commission it shall make the audit and report to the mayor. Article 240.

The mayor may collect fees for such affairs of the national government, other local public bodies or other public bodies as fall within his powers and the fees are retained by the city. Article 222.

The mayor may press for collection alloted charges, fees and the like and the execution of statutory labor or actual articles by setting a time limit. Non-payment may cause a fee to be added if authorized by by-law. In case of statutory labor and actual articles, the value may be determined in money. Article 225.

The mayor, with the consent of the assembly, may incur temporary debt to be paid out of current revenue. Article 227.

The mayor, if there is no inspection commission shall receive the demand of at least one fiftieth of the voters for an inspection of the affairs and management of the city, including the revenue and expenditure and the city enterprises. The mayor will give public notice of the demand and will make the inspection giving public notice of the result and also transmitting it to the assembly. Article 75.

Where there is imminent danger from a catastrophe or other emergency the mayor may call the citizenry to assist in preventing danger. Article 160.

In the event of an emergency or catastrophe the mayor may authorize the temporary use of land of any person or persons or to use the soil, stones, bamboo, trees, or any other item thereon provided that at a later date compensation is made at the market price. Article 160.

The mayor shall control the fire defense of the cities in accordance with by-laws. Article 7, Law of Fire Defense Organizations Law No. 226, 1947.

The mayor is responsible for the execution of the law to furnish assistance in living or relief to individuals. Daily Life Protection Law, Law No. 17, 1946.

The mayor may give his opinion to prefectural child welfare workers located in the city on matters pertaining to the welfare of children and expectant or nursing mothers. Article 13, Child Welfare Law No. 164, 1947.

The mayor shall assist the governor in relief work in case of a disaster. Article 8, Enforcement Ordinance of the Disaster Relief Law, Cabinet Order No. 225, 1947.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775 012

The mayor issues permits for burial, reburial and cremation. Article 8, Law Regarding Graveyards, Burial and Others Law No. 48, 1948.

The mayor shall provide a register for the registration of all aliens except certain official aliens. Article 5, Ordinance governing Registration of Aliens, Imperial Ordinance No. 207, 1947.

The mayor shall manage the affairs of the Family Registration Law. Article 1, Family Registration Law, Law No. 224, 1947.

The mayor is responsible for the affairs pertaining to local education until a local Board of Education is established. The School Education Law, Law No. 26, 1947.

The mayor is responsible for handling the affairs pertaining to Social Education if there is no local board of education in the city. Article 2, Supplementary Provisions Social Education Law, Law No. 207, 1949.

The mayor, if the governor thinks necessary, shall be a member of the Welfare Commissioner Council, attend the meetings and give his opinion. Article 22, Welfare Commissioners Law, Law No. 198, 1948.

The mayor may order the Minister of Welfare welfare workers assigned to the area of the city to prepare necessary data on persons requiring protection and he may give necessary directions concerning their duties. Articles 5, 13 and 17, Welfare Commissioners Law, Law No. 198, 1948.

All political parties, associations, societies or other organizations who propose or support candidates for public office; engage in any activity influencing the policy of Government or local public bodies; or discuss relations between Japan and a foreign power, must register and give certain facts to the mayor of the city where the principal office is located. The Organizations Control Order, Cabinet Order No. 64, 1949.

RELATIONSHIP WITH THE ASSEMBLY

The mayor normally issues the call for both the regular and extraordinary sessions of the assembly. Seven days notice shall be given. Article 101.

The mayor shall give public notice of matters to be transacted at an extraordinary session. Article 102.

The mayor is responsible for the preparation and submission of administration's bills to the assembly. Article 149.

The mayor shall receive from the chairman of the assembly a report on the results of a meeting of the assembly and a copy of the minutes. Article 123.

If the mayor considers any resolution passed by the assembly or any election held in the assembly to be ultra vires or contravenes any law or ordinances the mayor shall so state and cause the assembly to reconsider and if the assembly refuses to reconsider he may bring action in court against the assembly. Article 176.

The mayor may return for reconsideration to the assembly within ten days any adopted resolution. He must specify the reason at the time. If he fails to return the resolution within ten days or after return it is reconsidered by a vote of at least two-thirds of the members present then the resolution is considered adopted. Article 176.

DECLASSIFIED E.O. 12(652 SEC. 3(E) AND 3(D) OR (E) NNDG # 773 072

The mayor may appropriate and expend funds which he is required to do by law or competent authority if the assembly disapproves a second time. If the assembly disapproves a second time an expense necessary for emergencies or recovery of utilities caused by a disaster or to prevent an epidemic the mayor shall consider the second disapproval a vote of non-confidence. Article 177.

The mayor must receive and refer to the assembly any objection in respect to the use of the city property. Article 215.

The mayor shall receive any objections relating to use of property fixed by custom and to the levy of rent, alloted charges and the like and shall refer them to assembly for determination. Article 224.

The mayor may dispose of matters which should be resolved by the assembly if the assembly under certain conditions fails to convene or there is an urgency and not sufficient time to convene the assembly or the assembly fails to pass a required resolution. In all such cases the mayor shall report these matters to the next session of the assembly. Article 179.

The mayor may also dispose of minor matters which are within the jurisdiction of the assembly and have been specified by resolution. The mayor must report such action to the assembly. Article 180.

The mayor must submit a report to the assembly on any action taken by him on a petition of a person filed with assembly and referred to him. Articles 124 and 125.

The mayor, if called upon by the assembly, must make explanations to the assembly upon the affairs of the city including the estimates and the affairs of the national government delegated to him. Articles 98, 99, 121 and 122.

The mayor shall receive reports from the election adminstration committee on the results of the vote in a demand for the dissolutions of the assembly or dismissal of an assemblyman. Articles 77 and 82.

DECLASSIFIED E.O. 11652 SEC. 5(E) AND 5(D) OR (E) NNDG # 773 012

THE CITY ASSEMBLY

Note: All references are to Articles in the Law Concerning Local Autonomy, Law No. 67, 1947, as amended, unless otherwise noted.

The local public entities shall establish assemblies as their deliberative organs, in accordance with law. The members of the assemblies of local public entities shall be elected by direct popular vote within their several communities. Article 93, The Constitution of Japan.

The full number of the assemblymen of a city shall be a minimum of thirty and a maximum of one hundred, based upon population. The number fixed by law may be reduced by by-law effective at a general election, except in case of a decided increase or decrease in population of the city due to a joinder or separation of territories, then the number may be increased or decreased by by-law during the term. No elected assemblyman shall be displaced if the number is reduced and in case of an increase, the increase shall not be greater than the number provided by law for a city with that population. The increased number will be selected as a by-election. Article 91.

QUALIFICATION, TENURE AND ELECTION

Assemblymen shall be elected by eligible voters for a term of four years. Article 17 and 93.

A city may create electoral districts by by-law for the election of members of the assembly. A member is elected from the district in which he resides and the number to be elected from each district is determined by by-law. Article 22.

An elector votes for only one assemblyman in a district. Article 32.

An assemblyman to be elected must poll a minimum of one-fourth of the number of votes obtained by dividing the total number of valid votes cast by the full number of assemblymen in the electoral district. Article 55.

A person must be 25 years of age on the day of the election to be eligible to be an assemblyman. Article 19.

Procedure for the election of any assemblyman is contained in Chapter IV of the Law Concerning Local Autonomy.

A person who has been adjudged incompetent or quasi-incompetent or who has been sentenced to imprisonment with or without hard labor and has neither finished the execution of such punishment nor has ceased to undergo the same shall not be eligible to be elected as an assemblyman. Article 20.

The member of the assembly cannot concurrently be:

(1) A member of the Diet.
(2) A paid official of any local public body.
(3) An employee subject to the National Public Service Law.
(4) A member of a Board of Education, except as provided by law.
(5) A member of a Public Safety Commission.

DECLASSIFIED E.O. 11652 SEC. 5(E) AND 5(D) OR (E) NNDG # 773 072

(6) Educational Public Service Personnel.
Article 92.
Article 44 Police Law, Law No. 195, 1947
Article 7 Board of Education Law, Law No. 170, 1948.
Law for the Special Regulations Concerning Educational Public Service, Law No. 1, 1949.
National Public Service Law, Law No. 120, 1947, as amended.

A general election occurs only when the entire membership comes up for election and the tenure of office of the assemblymen is computed from the date of the general election except when held prior to the expiration of the term. A candidate elected to fill a vacancy in an assembly finishes out the term of his predecessor. Article 93.

The election to fill a vacancy is a by-election and shall only be held when the vacancies exceed one-sixth of the full number of assemblymen for the electoral district concerned unless another election is being held within the district and in any case the by-election shall not be held if less than six months exist before the expiration of the term of the assemblymen unless the total number of assemblymen is less than two-thirds of their full number. Article 62.

ALLOWANCES

An assemblyman is entitled to remuneration and expenses as provided in by-laws. Article 203.

An assemblyman shall receive a retiring allowance, compensation for the termination of office, compensation for death and allowance for surviving family. Article 205.

CONVOCATION AND SESSIONS

The city assembly is subject to call by the mayor. However, if one-fourth or more of the full number of assemblymen make a demand for an extraordinary session, the mayor is required to call the assembly into extraordinary session. Article 101.

Notice must be given at least seven days prior to the opening of either an ordinary or extraordinary session unless expeditious action is required. Article 101.

Provision is made for a minimum of six ordinary sessions per year. Extraordinary sessions are called whenever necessary for the transaction of a particular matter. Article 102.

The mayor is charged with informing the public of the matters to be discussed in the case of an extraordinary session. However, matters arising while the extraordinary session is in meeting may be summarily discussed and voted on. Article 102.

A majority of the full number of assemblymen must be present in order to hold a lawful and binding session. There are important exceptions to this:

(1) Where members are excluded from taking part in the proceedings because of self interest or the interests of family, and the number present is less than half of the full membership;

DECLASSIFIED E.O. 12032 SEC. 3(E) AND 3(D) OR (E) NNDG # 775 012

(2) Where they have been called twice for a session on the same matter and the number present is still less than half;

(3) Where the assembly has responded to the call but the number present after a notice demanding attendance is still less than half the full number of the assembly. Article 113.

The chairman shall open the daily session where a demand is made by a majority of the full number of assemblymen and if the chairman fails to open the session after such demand, the vice-chairman, and in the event he would not act, an elected chairman could open the meeting.

If a member objects or the session was opened by demand, the daily session cannot be closed except by resolution. Article 114.

All sessions are public. If a secret sitting is desired the chairman or three or more assemblymen may move the adoption of a resolution which must be passed by a majority of two-thirds or more of the assemblymen present. This motion is decided without debate. Article 115.

All proceedings shall be decided by a majority vote of those present unless otherwise specifically provided for by law. The chairman may cast a vote in the event of a tie vote, although in that case he may not participate in the resolution as an assembly member. Article 116.

An assembly may reconsider any measure returned to it for reconsideration by the mayor and, if upon two-thirds vote of the assemblymen present, the measure as originally resolved is the same, then it shall be considered enacted. Article 176.

Any assembly member may present written bills to the assembly on any matter which shall be resolved by the assembly except on matters concerning estimates of annual revenue and expenditure which are presented by the mayor. Article 112.

Issues not determined in a particular session shall not be continued in a subsequent session unless presented again for consideration. Article 119.

By-laws, as enacted, should be given public notice. Article 16.

The governor must be notified on the enactment, alteration or abolishment of any by-law. Article 252.
Article 189, Cabinet Order for the Enforcement of the Law Concerning Local Autonomy, Cabinet Order No. 16, 1947.

Length of the session, time of adjournment, the time of opening and closing are all matters to be determined by the assembly. Article 102.

CHAIRMAN

One chairman and one vice-chairman are to be elected from among its members. Their term of office is concurrent with the term of an assemblyman. Article 103.

The chairman shall:

(1) Keep order.
(2) Arrange the proceedings.
(3) Preside over the affairs.
(4) Represent the assembly. Article 104.

DECLASSIFIED BY: 14032 SEC. 3(E) AND 3(D) OR (E) NNDB # 775 072

The chairman is entitled to attend committee meetings and speak thereat. Article 105..

In the event of disability of the chairman, the vice-chairman will assume the chair and in the event that both chairman and vice chairman are disabled an acting chairman will be elected by the assembly. Article 106.

Provision is also made so that the assembly may delegate to the chairman the appointment of an acting chairman. Article 106.

The chairman and vice-chairman may retire from office upon obtaining the approval of the assembly; when, however, the assembly is not in session the vice-chairman may obtain the approval of the chairman and retire. Article 108.

A chairman or member of an assembly shall not participate in proceedings where his own or his family's interest are involved. He may attend and speak, however, with the consent of the assembly. Article 117.

COMMITTEES

The assembly may, by by-laws, create standing committees. Unless otherwise provided for by by-law a standing committeeman holds office concurrent with his term of office as assemblyman. Standing committees are created for each division relating to the affairs of the city. Article 109.

Provision is made for investigation, public hearings, testimony of interested parties and expert testimony. Article 109.

The standing committees shall meet and hold hearings and meetings even when the assembly is not in session on matters specially referred to it. Article 109.

A special committee may be created by by-law. Special committeemen are selected by the assembly and hold office while the matter referred to it is deliberated and investigated. The special committee deliberates on matters referred to them by the resolution of the assembly only during the session of the assembly, provided that it shall not be precluded from investigating and deliberating upon matters specially referred to it by the resolution of the assembly even when the assembly is not in session. Article 110.

DISCIPLINE

Where an assemblyman contravenes the Law Concerning Local Autonomy or the rules of procedure or disturbs the order of the proceedings, the chairman may order him to desist or cause him to revoke his speech. If the assemblyman fails to obey such order, he may be silenced by the chairman for the balance of that day or ordered to withdraw from the assembly hall. Article 129.

If the session has become tumultuous and order is too difficult to obtain, the chairman may close the session for the day. Article 129.

Where a spectator manifests an aye or a nay openly or becomes clamorous or otherwise obstructs the proceedings of the meeting, the chairman can order him to desist. If he fails to obey such order, the chairman

DECLASSIFIED EXCEPT PAGES SEC. 3(E) AND 3(D) OR (E) NARA # 775 012

can cause him to withdraw from the assembly hall, or, if necessary, turn him over to competent police officials. The chairman may clear the assembly hall of spectators. Article 130.

Any assemblyman may call the chairman's attention to any person who disturbs order and obstructs the proceeding. Article 131.

The chairman can make other regulations with regard to the control of spectators. Article 130.

An assemblyman shall not use insolent words nor shall he indulge in words concerning the personal affairs of other persons. Article 132.

An assemblyman who has been insulted may appeal to the assembly and request disposition of the matter. Article 133.

The assembly has the power and authority to impose disciplinary punishment on assemblymen for violations of this law or the rules of procedure. Article 134.

The assembly by resolution can:

(1) Reprimand — in the public assembly hall.
(2) Ask for an apology in the public assembly hall.
(3) Suspend the assemblyman from all proceedings for a period of time.
(4) Expel — at least two-thirds of the members must be present and a three-fourths vote of those present is necessary for expulsion. Article 135.

If a member is expelled as above and subsequently elected again to the office the assembly must accept him. Article 136.

Where an assemblyman, without just reason, fails to be present even after the chairman has especially served a writ of summons, the chairman can ask the assembly to impose disciplinary punishment. Article 137.

ADMINISTRATION

Provision is made for a clerk for an assembly, appointed by the chairman, to deal with the general affairs of the assembly. Article 138.

The chairman of the assembly shall cause a record of proceedings of a session, together with the attendance, to be kept, which must be signed by the chairman and at least two assemblymen. A copy of the minutes must be given to the mayor and the governor. Article 123.

The assembly can make its own rules of procedures. Article 120.

RESIGNATIONS AND VACANCIES

In order to resign the assemblyman must obtain permission from the assembly when it is in session; when out of session permission is obtained from the chairman. Article 126.

In the following instances an assemblyman is ineligible to sit:

(1) Where he has been adjudicated an incompetent or quasi-incompetent;

DECLASSIFIED E.O. 14032 SEC. 3(E) AND 3(D) OR (E) NNDG # 775 072

(2) Where he has been sentenced to imprisonment without hard labor or to any more severe punishment;

(3) Where he has been sentenced to a fine arising out of an election offense. Article 127.

His ineligibility for any other reason is determined by the assembly by a majority of two-thirds or more of the assemblymen present. Article 127.

An assemblyman may defend his qualification before the assembly but shall take no part in the voting. Article 127.

A petition demanding a dismissal of an assemblyman must contain the joint signature of one-third of the electors of the electoral district concerned. Article 80.

A petition demanding the dissolution of an assembly must contain the joint signature of at least one-third of the electors. Article 76.

A vote of a majority of the electors in a vote for dismissal or dissolution is required to make it effective. Articles 78 and 83.

NON-CONFIDENCE

The assembly may pass a resolution of non-confidence against the mayor, in which case the mayor must either resign or dissolve the assembly within ten days. A quorum of two-thirds of the existing members of the assembly and a two-thirds vote of those present is required for a vote of non-comfidence. Article 178.

When the new assembly first convenes after the old assembly had been dissolved by the mayor after a vote of non-confidence and the new assembly then passes a vote of non-confidence in the mayor, the mayor must resign. Article 78.

If the assembly strikes out or reduces an item in the budget necessary for an emergency or recovery of utilities due to a disaster or expenses necessary to prevent an epidemic, a second time after the mayor has asked for reconsideration, it may be considered by the mayor a vote of non-confidence. Article 177.

POWERS AND FUNCTIONS

Local public entities shall have the right to manage their property, affairs and administration and to enact their own regulations within law. Article 94 The Constitution of Japan.

The assembly may resolve the following matters:

(1) The enactment, alteration or abolition of by-laws.
(2) The determination of estimated annual revenue and expenditures.
(3) The approval of the final report on accounts.
(4) All matters relating to the levy and collection of local taxes, rents and fees, allotted charges, and entrance fees.
(5) The creation, management and disposal of real property, sinking funds, reserve fund and grain fund.
(6) To take or dispose of property determined by by-laws and to establish or dispose of buildings.

DECLASSIFIED E.O. 12065 SEC. 3(E) AND 3(D) OR (E) NNDG # 773 012

(7) To accept property by gift, grant, bequest, devise and to waive rights except those provided for in the estimated annual revenue and expenditure.

(8) To make contracts as provided by the by-laws.

(9) To handle matters relating to objection, appeal, action, reconciliation, mediation, arbitration and settlement concerning the city.

(10) To make a determination of the amount of compensation for which the city may be responsible.

(11) Matters relating to the adjustment and coordination of the activities of public bodies within the local public body.

(12) Any matter authorized for action by the assembly in accordance with laws and cabinet orders.

An assembly may enact by-laws concerning its public or administrative affairs provided they do not contravene a national law or prefectural by-law and it is not unconstitutional. Articles 2 and 14.

An assembly cannot deal with national affairs. Article 2.

Penal provisions of by-laws are limited to the imposition of imprisonment with or without hard labor not exceeding two years, fine not exceeding 100,000 yen, detention, charge or confiscation, unless otherwise authorized by law. Article 14.

The assembly may enact by-laws relating to the fire defense. Article 7 Law of Fire Defense Organization, Law No. 226, 1947.

Change of name or location of the office of a city must be determined by an assembly by-law. Articles 3 and 4.

The creation, dissolution, division, union or alteration of the boundary of a city must first be resolved by the assembly. Article 7.

A city, by resolution of the assemblies concerned, may create an establishment outside of the area of the city. Article 210.

The assembly must enact a by-law authorizing the mayor to create necessary divisions or sections for the purpose of allotting the affairs which fall within his powers. Article 158.

The assembly shall, by by-law, fix the amount of remuneration, salary, traveling expenses and other expenses for certain classes of officials and employees and shall determine any complaints thereof. Articles 203, 204, 205 and 206.

The assembly has the power to increase the estimates of amounts with respect to annual revenue and expenditure but cannot add items to the budget. However, the authority of the mayor to submit a draft of the estimate of annual revenue and expenditure shall not be invaded. Article 97.

The assembly may authorize the issuance of local bonds in certain cases. Article 226.

The assembly may authorize temporary loans to be paid out of current revenue. Article 227.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NNDG # 773 072

In cases of certain emergencies a levy of statutory labor and actual articles may be enacted by the assembly. Article 218.

All matters concerning revenue and the budget are generally contained in the Chapter IX of the Law Concerning Local Autonomy.

The assembly may authorize the purchase or sale of property other than by competitive bidding and if the matters are important it will require two-thirds vote of those present. Article 243.

The assembly is required to resolve any change in the use of property which has been used by the people for a long period of time so as to create a custom. Article 209.

The assembly, by by-law, shall determine matters concerning the disposition, acquisition, use and management of city properties. Article 213.

An administrative fine of not more than two thousand yen may be imposed by by-law in regards to the use of city property. Article 214.

HEARINGS, COMPLAINTS, DEMANDS, REPORTS

The mayor, the chairman of an Election Administration Committee, an inspection commissioner, a member of the Public Safety Commission, a member of the Board of Education or any person who has received delegation or commission from the assembly, shall, when required by the chairman, present himself at the assembly hall for inquiry and explanation. Article 121.

The mayor may present an explanation of the budget or other affairs of the city to the assembly. Article 122.

The assembly must express an opinion within twenty days of any complaint referred to it by the mayor when a citizen complains regarding the illegality of error of an allotted charge, rent, statutory labor, article, fee or entrance money or to the use of property fixed by custom. Article 224.

The assembly must give an opinion within twenty days if any person files a complaint concerning the use of city property. Article 215.

A public hearing must be held by the assembly, with notice given to the public, whenever it desires to enact or alter a by-law levying an assessment against property. Article 217.

The receipts and expenditures of the city shall be regularly audited over a month by the inspection commissioner and an extraordinary audit shall be conducted twice each year. Two or more assemblymen shall be present at the extraordinary audit. The assembly shall receive a report of all audits. Article 240.

Final reports at the end of the fiscal year will be presented to the assembly. Article 242.

The assembly has the power of inspection with respect to documents and statements of account and through reports from the mayor examine the management of affairs, the execution of resolutions and the budget. Article 98.

The assembly may demand a report from the mayor on all matters connected with his administration and may draft a resolution stating

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 773 012

its opinions and conclusions thereon. This explanation may concern matters delegated to him to perform by the national or prefectural government. Article 99.

An assembly may initiate opinions on matters concerning the local public body and submit them in writing to the proper administrative officers. Article 99.

The assembly may investigate and demand the appearance and testimony of electors and any other persons and demand that they bring with them documents and records. The Code of Civil Procedure governs the handling of witnesses in these investigation proceedings except where specially provided in the Law Concerning Local Autonomy and those provisions relating to detention or administrative fine. Article 100.

Failure to appear or failure to appear with the named documents and records and also failure to give testimony without a just reason is punishable by imprisonment without hard labor not exceeding six months, or by fine not exceeding 5,000 yen. Article 100.

Where the facts desired by the assembly in the investigation are in the category of a confidential communication obtained by the witness in his official capacity as a government or public official the witness may refuse to answer and also refuse to submit or present records unless the particular office involved gives consent. If the office concerned fails to show within twenty days that the evidence desired is contrary to the public interest, then it must be given. Article 100.

The penalty for a false statement at a hearing is imprisonment without hard labor at a minimum of three months and a maximum of five years. However, if before the hearing terminates the person confesses, the punishment may be mitigated or excused in toto. Article 100.

The assembly shall refer for prosecution any person who makes a false statement in an assembly hearing, but in the event of a confession before the termination of the investigation the assembly itself may dispense with any referral for prosecution. Article 100.

The assembly may provide, within the scope of the budget, for the necessary amount of money required for the investigation. Should the original amount set have to be increased, a further assembly resolution is required. Article 100.

The assembly shall determine by by-law the expenses incurred by electors in attending certain hearings. Article 207.

Petitions by citizens are submitted to the assembly through an assemblyman. Article 124.

Where the assembly adopts a petition it may be referred to the mayor, the Election Administration Committee, the Inspection Commissioners, or the Public Safety Commission or the Board of Education for action and report of progress and final disposition. Article 125.

A petition demanding the enactment, amendment or abolition of a by-law must contain the signatures of at least one-fiftieth of the electors. No demand can be made concerning by-laws relating to the levy and collection of local taxes, allotted charges, rents or fees. The assembly must act on such demand and a report is given to the proponents of the petition. Articles 12 and 78.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NNDG # 775 012

APPOINTMENTS AND DISMISSALS

The assembly must consent to the appointment of the deputy mayor, the treasurer and assistant treasurer. Articles 162 and 168.

One-third of the electors may present a petition with their joint signatures to the mayor asking for the dismissal of the deputy mayor, treasurer, member of the Election Administration Committee, an inspection commissioner or a member of the Public Safety Commission. The mayor refers the petition to the assembly. The assembly, after public notice has been given, shall vote. A vote of dismissal requires a vote of three-fourths of those present with a required quorum of two-thirds of the existing members in the assembly. No vote shall be taken less than six months after their appointment or a previous vote on the same subject. Articles 86, 87 and 88.

The assembly shall elect the members of the Election Administration Committee from among the persons who have the right to vote. Article 182.

The assembly must approve the appointment of the inspection commissioners. Article 196.

The assembly shall appoint one member of a Board of Education. Article 7, Board of Education Law.

Where the assembly is required to elect a person to fill a position the general rules of election procedure as apply to the election of an assemblyman shall prevail. The validity of such an election shall be determined by the assembly although anyone aggrieved may ask for a court decision. Article 118.

MISCELLANEOUS

The national government is charged with the responsibility of sending to the assemblies the official gazettes and publications which are germane to the city. Article 100.

The assembly is charged with establishing a library to provide a place for investigation and study by the assemblymen and which is the official depository for the official gazettes and other government publications. The library may be opened to the public. Article 100.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 773 012

ELECTION ADMINISTRATION COMMITTEE

Note: All references are to articles in the Law Concerning Local Autonomy, Law No. 67, 1947, as amended, unless otherwise noted.

APPOINTMENT, QUALIFICATION AND TENURE

Every city shall have an Election Administration Committee consisting of four members. Article 181.

The members shall be elected by the assembly from among persons who have a right to vote, and there shall at the same time be an equal number of supplementary members elected. Articles 18, 20 and 182.

The term of office of both the regular and supplementary members shall be ~~four~~ two years, although he shall remain in office until his successor assumes office. A person appointed to fill a vacancy shall hold office for the remainder of the term of predecessor. Article 183.

Not more than two members shall be members of the same political party at the same time. This applies to either the regular or supplementary members. Article 182.

A member of the Committee or any of its officials or employees are ineligible to be a candidate for any elective office in the area in which they act in affairs concerning elections. Article 21.

A member of the Committee may not concurrently be:

(1) A member of the Diet;

(2) A public procurator;

(3) A police official, either national or local;

(4) A member of a public safety commission;

(5) A revenue official. Articles 21, 141, 166 and 193.

It has not been finally determined whether or not persons under the National Public Service Law or educational public service personnel can be concurrently members of the Commission. As a matter of practice, they should not be. National Public Service Law, Law No. 120, 1947, as amended. Law for the Special Regulations concerning Educational Public Service, Law No. 1, 1949.

A member of the Committee may not enter into a contract with the city nor be an officer or director of a corporation or association which has a contract or is required to do work for which the city pays the expenses. Articles 142 and 193.

VACANCIES

A member may resign with the approval of the chairman of the Committee. Article 185.

A member automatically loses his position if:

(1) He has been adjudicated an incompetent or quasi-incompetent;

DECLASSIFIED E.O. 12065 SEC. 3(E) AND 3(D) OR (E) NNDG # 773 012

(2) He has been sentenced to imprisonment without hard labor or to any severer punishment;

(3) He has been sentenced to a fine on conviction of an election offense.

He shall lose his office if he has otherwise lost the right to vote which shall be determined by the Committee itself. Articles 127 and 184.

If a member is dissatisfied with the decision of the Committee to dismiss him, he may file an action in court against the Committee. Articles 118 and 184.

A request for the dismissal of a member of the Committee may be made to the mayor by a petition of the voters signed by one-third of the voters. The mayor shall then submit the petition to the assembly who shall decide. No petition may be acted upon within six months after the member took office or within six months after a vote by the assembly on the same matter. Articles 86, 87 and 88.

Vacancies on the regular Committee shall be filled from the supplementary members. The vacancy shall be filled first from the senior supplementary members; if the same seniority, then from the one who originally received the most votes. If the votes were the same, then he shall be selected by lot. If a vacancy occurs in the regular committee and the first supplementary member to fill the vacancy belongs to the same political party as two of the regular members, then he shall be passed for the next supplementary member of a different political party. Article 182.

ADMINISTRATION

A member of the Committee is entitled to remuneration and reimbursement of expenses in an amount fixed by by-law. Article 203.

The members of the Committee are entitled to a retiring allowance, compensation for termination of office, and compensation for death or allowance to the surviving family. Article 205.

The Committee shall elect from its members a chairman who shall deal with the affairs of the Committee and represent it. Article 187.

The chairman shall delegate a member to take his place if he is absent or unable to perform his duties. Article 187.

The chairman must obtain the approval of the Committee to resign. Article 185.

The Committee shall generally be convoked by the chairman; although if a demand for the convocation is made by a member, then the chairman shall convoke a meeting. Article 188.

The chairman may delegate some of his affairs which fall within his power to any official of the city. Articles 153 and 193.

The chairman may direct and supervise any of his auxiliary organs. Articles 154 and 193.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NNDG # 775 012

The chairman, in case of retirement, shall hand over the affairs to another member of the Committee within ten days. rticles 159 and 193. rticles 122 and 140 Cabinet Order No. 16, 1947.

Three members constitute a quorum to do business. rticle 189.

The chairman or member of a Committee shall not participate in the proceedings of the Committee if he or his family are involved, although he may attend the meeting and speak. rticle 189.

If the members are temporarily disabled so as to be less than a quorum, the chairman may temporarily select proper supplementary members to take their place. rticle 189.

A vote of a majority of the members present shall constitute a decision of the Committee. rticle 190.

The Committee shall have clerks, the full number to be determined by by-law. rticle 191.

The clerks shall be appointed or removed by the mayor and are subject to the same regulations as city clerks. rticles 172 and 193.

Clerks who assist in the election business are entitled to traveling expenses and salaries in an amount fixed by by-law. rticle 204.

ll matters relating to the status, duties, and disciplinary punishment of members shall be determined by the Public Service Law. rticle 192.

REL TIONSHIP WITH THE SSEMBLY

member of the Committee must appear before the city assembly and make explanation as to the work of the Committee if requested by the chairman of the assembly. rticle 121.

The Committee must act on petitions adopted by the city assembly and forwarded to the Committee for action. report must be made to the assembly of the progress and result. rticle 125.

REL TIONSHIP WITH OTHER ELECTION COMMISSIONS

The Committee, when performing national functions, is subject to the direction and supervision of the prefectural election administration committee and the competent national agency which is the National Election Management Commission. rticles 150 and 193. rticle 4, The National Election Management Commission Law No. 154, 1947.

The National Election Management Commission shall, in relation to the business concerning the election of the members of the Diet, members of assemblies or chiefs of local public bodies and other voting, direct and supervise the commission. rticle 4, The National Election Management Commission Law, Law No. 154, 1947.

The prefectural election administration committee directs and supervises the city committee and may annul or suspend any decision that has been made if it is ultra vires or contravenes the regulations. rticles 151 and 186.

DECLASSIFIED E.O. 14,652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775 012

Committees shall direct and supervise ward election administration Committees. rticle 155, rticle 139, Cabinet Order No. 16, 1947.

DUTIES ND RESPONSIBILITIES

The Committee shall handle the affairs relating to elections concerning the city elections, elections of other local public bodies, of public bodies and other affairs. rticles 23 and 186.

The Committee shall give public notice of the dates of an election for an assemblyman or mayor except when an election is being held simultaneously with a prefectural election. rticles 24 and 25.

The Committee shall be responsible for the preparation of the elector's register, both regular and supplementary. rticles 26 and 27.

The Committee shall select and appoint the superintendent of the poll for each polling district from among those who have the right to vote. He shall take charge of the affairs relating to polling. rticle 29.

The form of ballot paper shall be determined by the Committee for city elections only which are not being held simultaneously with a prefectural or national election. rticle 31.

The Committee may vary the poll date if circumstances warrant. rticle 35.

The Committee shall appoint a superintendent for the counting of the votes for each district from among those who have the right to vote. He shall take charge of the affairs relating to the counting of votes. rticle 39.

The Committee may establish separate counting districts for city elections. rticle 38.

The presiding officer of election shall be appointed by the Committee from among those who have the right to vote and shall take charge of the affairs relating to an election meeting. rticle 45.

The Committee shall preserve the records of the election for the period of time the person elected holds the elective office. rticle 50.

The Committee shall receive reports from the presiding officer of election as to the result of an election and shall notify the elected person and give public notice of the addresses and names of the elected person. The prefectural election administration committee shall also be notified. rticle 59.

If no person is elected, or if the number of elected persons to the assembly is less than the full number of the assemblymen to be elected, then the Committee shall give public notice and notify the prefectural election administration committee. rticle 59.

The Committee shall receive notices of declination to accept office from elected persons. rticle 60.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 773 012

The Committee shall issue a certificate of election to elected persons and give public notice of his address and name. Article 61.

If no elected person remains, or in case of an assembly the number is less than the full number to be elected, public notice must be given by the city. The Committee in both cases shall, in case of an election for the city assembly, notify the governor, the prefectural election administration committee and the mayor, and in case of an election of the mayor, notify the governor and the prefectural election administration committee. Article 61.

The Committee shall make necessary arrangements for extraordinary elections when the occasion occurs. Article 62.

The Committee shall receive any objections to the validity of an election from an elector or candidate within fourteen days after the date of public notice of the results and make determination thereof. The decision of the Committee is subject to review by the prefectural election administration committee. The person may make further appeal to the High Court. Article 66.

The Committee may determine the whole or part of an election to be void if the provisions of law concerning elections have been contravened, but only when the violation affects the result of the election. Article 67.

The Committee, upon request of the mayor, in case of a demand for the enactment, amendment or abolition of a by-law, shall confirm that the persons signing are named in the electors' register and that the number is one-fiftieth of the total number on the register. Article 74. Article 91, Cabinet Order 16, 1947, as amended. The Cabinet Order Concerning the Enforcement of the Local Autonomy Law.

If a petition containing the joint signatures of one-third of the electors is filed with the Committee demanding the dissolution of the assembly, the Committee shall promptly give public notice and submit the same to the voters. Article 76.

The Committee should not consider the demand for dissolution of the assembly if it is made within one year of the general election electing the assembly or one year from the date of a previous election for dissolution. Article 79.

If a petition containing the joint signatures of one-third of the electors is filed with the Committee demanding the dismissal of an assemblyman or the mayor, the Committee shall promptly give public notice and submit the same to the voters. Articles 80 and 81.

The Committee should not consider the demand for dismissal of an assemblyman or mayor if it is made within one year from the date of his election or a previous election for dismissal unless at the time of the election there was no contest. Article 84.

The Committee, upon receiving information as to the results of an election for dissolution of an assembly or dismissal of an assemblyman or mayor, shall inform the representatives of the people asking for dissolution or dismissal and the chairman of the assembly, give public notice and report, in case it involves the assembly, to the mayor and the governor, and to the governor if it involves the mayor, in which case the mayor is also informed. Articles 77 and 82.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 773 012

The Committee shall conduct the vote for dissolution of an assembly or dismissal of an assemblyman or mayor in a similar manner to an election for these officials. Article 85.

The Committee shall handle in the city the affairs of the business pertaining to elections in the following laws:

(1) Law for Elections of Members of the House of Representatives, Law No. 47, 1923, as amended;

(2) Law for the Election of Members of the House of Councillors, Law No. 11, 1947, as amended;

(3) The Agricultural Land Adjustment Law, Law No. 67, 1948, as amended;

(4) The Board of Education Law, Law No. 170, 1948, as amended;

(5) The Food Maintenance Temporary Measures Law, Law No. 182, 1948;

(6) The Special City Planning Law, Law No. 19, 1946, as amended;

(7) The Law Concerning Exceptions to Article 12 of Law for Election of Members of House of Representatives, Law No. 2, 1947, as amended;

(8) The Law for Special Instances of the Writings, Drawings and the Like in the Election Campaign, Law No. 16, 1947, as amended;

(9) The Law concerning the Provisional Exceptions to Election Campaigns and Others, Law No. 196, 1948, as amended;

(10) The Law for the Regulation of Political Contributions and Expenditures, Law No. 194, 1948;

(11) The Law of the People's Examination of the Supreme Court Judges, Law No. 136, 1947;

(12) The Land Improvement Law, Law No. 195, 1949.

DECLASSIFIED E.O. 14,652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775 012

PUBLIC SAFETY COMMISSION

Note: All references are to articles in the Police Law, Law No. 196, 1947, as amended, unless otherwise noted.

APPOINTMENT, QUALIFICATION AND TENURE

There shall be established under the jurisdiction of the mayor a Public Safety Commission to control the police. Article 43.

The Commission shall be composed of three members appointed by the mayor with the consent of the city assembly. Articles 21 and 44.

Those who have qualifications for the city assembly are qualified to be members of the Commission. Articles 21 and 44. Articles 18, 19 and 20, Law Concerning Local Autonomy, Law No. 67, 1947, as amended.

The following persons cannot be members of the Commission:

(1) One who has been in the police service;

(2) One who has a career of public service in the government or public office. (Except elected officials or persons elected by the Diet or an assembly, all subsequent to 2 September 1945.)

(3) A bankrupt who has not been rehabilitated;

(4) A person whose sentence of imprisonment or a heavier punishment has been executed;

(5) A person who, on and after the date of enforcement of the Constitution of Japan, has organized or joined a political party or any other organization advocating destruction by violence of the Constitution of Japan or the Government formed thereunder. Articles 21 and 44.

(6) Two or more members of the Commission cannot belong to the same political party. Articles 21 and 44.

(7) A member of the Election Administration Committee. Article 21, The Law Concerning Local Autonomy, Law No. 67, 1947, as amended.

Members of the Commission shall not be able to be concurrently members of the assemblies or salaried personnel of the Metropolis, Hokkaido, Prefectures, Special Wards, cities, towns or villages, members of the Diet, educational public service personnel, or officers of a political party or any other political organization. Articles 22 and 44. Law for the Special Regulations concerning Educational Public Service Law No. 1, 1949. Article 39, The Diet Law, Law No. 79, 1947.

The term of office of members of the Commission shall be three years, provided that a member filling a vacancy shall remain in office during the rest of the term of office of his predecessor. Articles 23 and 44.

DECLASSIFIED E.O. 12065 SEC. 3(E) AND 3(D) OR (E) NNDG # 775 012

A Commissioner shall be automatically relieved if he becomes as follows;

(1) A person who is a bankrupt and not rehabilitated;

(2) A person whose sentence of imprisonment or a heavier punishment has been executed;

(3) A person who has organized or joined a political party or other organization advocating destruction by violence of the Constitution of Japan or the government.

(4) A person who has ceased to have the right to be elected as a member of the assembly. Articles 21 and 44.

A mayor of a city, with the consent of the assembly, may dismiss a member of the Commission if he has been incapacitated from performing his duties on account of mental or physical incapacity, violated his official obligations or committed acts of misconduct not befitting a member. Articles 24 and 44.

If two or more members of the Commission become members of the same political party, then the mayor, with the consent of the assembly, shall dismiss all except one; although if they become members of the same political party as another member, then they may be dismissed without approval of the assembly. Articles 24 and 44.

Except in the cases referred to in the preceding two paragraphs, the mayor or the assembly cannot dismiss a member of the Commission without his consent. Articles 24 and 44.

A request for the dismissal of a member of the Commission may be made to the mayor by a petition of the voters signed by one-third of the voters. The mayor shall then submit the petition to the assembly who shall decide. No petition may be acted upon within six months after the member took office or within six months after a vote by the assembly on the same matter. Articles 24 and 44. Articles 86, 87 and 88 of Law Concerning Local Autonomy, Law No. 67, 1947, as amended.

ORGANIZATION

All members of the Commission are required to take an oath to defend and uphold the Constitution and the laws of Japan. Article 3.

A chairman is selected by the members. The chairman shall sit for one year. He presides over the meeting and may be reappointed. Articles 26 and 44.

The city will provide members of the Commission with remuneration and compensation of such expenses as they may require in the performance of their duties in an amount fixed by the city assembly. Articles 23 and 44. Articles 203 and 206, Law Concerning Local Autonomy.

The city assembly shall adopt regulations concerning the duties of the members of the Commission in line with Section 7 of Chapter III of the National Public Service Law. This portion of the National Public Service Law states generally that all persons should:

DECLASSIFIED BY: NARA SEC. 3(E) AND 3(D) OR (E) NNDG # 775 012

basic course of police training shall not be placed on duty with the police of cities, towns and villages except as temporary personnel thereof. Article 50. National Public Service Law, Law No. 120, 1947.

The Commission will be consulted by the assembly prior to the enactment of a by-law designating the location, name and jurisdiction of police stations. Article 45.

The Commission shall issue permits to become a second-hand dealer, a market manager for second-hand goods, a street peddler of second-hand goods or for an auction sale. Articles 2, 3, 8, 9, The Second-Hand Business Law, Law No. 108, 1949.

A member of the Commission must appear before the city assembly and make explanations of the work of the Commission if called upon by the chairman of the assembly. Supplementary Provisions Article 15 and Article 121, Law Concerning Local Autonomy, Law No. 67, 1947, as amended.

The Commission must act on petitions adopted by the city assembly and forwarded to the Commission for action. A report must be made to the assembly of the progress and result. Supplementary Provisions Article 15, Article 125, Law Concerning Local Autonomy, Law No. 67, 1947, as amended.

RELATIONSHIP WITH OTHER AGENCIES

The Commission is responsible for cooperation between the local autonomous police and the National Rural Police. Article 54.

The Commission may request the assistance of the National Rural Police, who, if they respond, shall be under the operational control of the Commission requesting assistance. Article 55.

The Commission or its police shall not be under control of the National Rural Police. Article 54.

If a national emergency is proclaimed by the Prime Minister, which includes the area in which the city is located, the Commission loses all control of the police, the control of whom passes to the Prime Minister. The Prime Minister may even order police outside of the area to proceed to the area of emergency. Articles 62, 63 and 64.

Liaison should be maintained with the Maritime Safety Board. Article 27, The Maritime Safety Board Law, Law No. 28, 1948.

DECLASSIFIED E.O. 12032 SEC. 3(E) AND 3(B) OR (E) NNDG # 775 072

(1) Attend to his duties and exert his utmost;

(2) Obey the laws;

(3) Act in such a manner so as not to discredit the position;

(4) Subscribe to an oath;

(5) Not divulge secrets concerning the position;

(6) Not strike or engage in delaying tactics against the government, either national or local;

(7) Not hold more than one position at a time in the public employment;

(8) Not engage in political activities except vote.

No regulation should be enacted prohibiting a member of the Commission from engaging in private activities or enterprise. Articles 22 and 44. Articles 96 to 106 of the National Public Service Law, as amended, Law No. 120, 1947.

DUTIES AND RESPONSIBILITIES

The Commission shall control the police in the exercise of the following functions:

(1) Maintenance of public order;

(2) Protection of life and property;

(3) Prevention and suppression of crime;

(4) Detection of crimes and apprehension of suspects;

(5) Serving of warrants of arrest and of detention and other affairs ordered by a Court, Judge or Public Procurator and provided for by law. Articles 2, 41 and 43.

The Commission in its control of the police shall be responsible that the police shall not use their authority so as to interfere with the civil liberties and rights of the individual, as guaranteed in the Constitution of Japan. Articles 1 and 43.

The Commission in its control of the police shall comprehend all matters relating to the organization and budget of the police. Articles 2 and 43.

The Commission shall appoint a police chief and shall have the power to dismiss for cause, all regulated by by-law. Article 47.

The Commission shall approve all appointments and dismissals of police personnel, although the chief of police makes the actual appointment and dismissal. The police chief, not the Commission, supervises and directs police personnel. Article 48.

The appointment and dismissal, allowance, performance of duties and other matters of police personnel shall be fixed by by-laws of cities, towns and villages in line with the spirit of the National Public Service Law provided that such persons as have not undergone a

DECLASSIFIED E.O. 12032 SEC. 3(E) AND 3(B) OR (E) NNDC # 775 072

LOCAL BOARDS OF EDUCATION

Note: All references are to Articles in the Board of Education Law, Law No. 170, 1948, as amended, unless otherwise noted.

ELECTION, QUALIFICATION AND TENURE

Boards of Education in the cities shall be known as Local Boards of Education. Article 3.

Local Boards of Education shall be established in Osaka, Kyoto, Nagoya, Kobe and Yokohama and by 1 November 1952 in other cities. Cities desiring a Local Board of Education shall pass a resolution and submit it to the governor 90 days before the election to be held on 5 October. No Local Boards of Education shall be established in 1949 or 1951. Article 70 and Cabinet Order 239, 1948. Article 11.

The Board shall consist of four members elected by the inhabitants of the city who are citizens and one member to be elected by and from the city assembly. Article 7.

Eligibility for suffrage and membership on the Board shall be the same as that for city assemblymen. Article 9. Art. 19, 20, Law Concerning Local Autonomy, Law No. 67, 1947, as amended.

The term of office is four years with half of the members being elected every two years. Article 8.

The term of the member elected by and from the assembly shall be the same as his term of office as assemblyman. Article 8.

The term begins from the day of election. Article 8.

There shall be an election every two years of half the fixed number of the Board. Article 11.

The election of the members generally follows the procedure for the election of the members of the city assembly which is set forth in Chapter IV of the Law Concerning Local Autonomy, Law No. 67, 1947, as amended.

A candidate for membership on the Board must be recommended by at least sixty voters and he must consent to his candidacy. Article 16.

A candidate for membership on the Board cannot be a candidate for another Board of Education at the same time. Article 17.

A candidate for membership on the Board need not make a deposit when he files. Article 18.

The candidates who receive the greatest number of votes shall be deemed to be elected members. Article 19.

When a joint election for members with different term of office is held, elected members with longer term of office shall be selected from those who have obtained the greater number of votes. A tie is determined by drawing lots. Article 20.

The administration of the election of members is the responsibility of the city election administration committee. Article 13.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 773 012

Vacancies occuring on the Board, except that of the assembly member, are generally filled by appointment, the selection being made by the remainder of the Board. This appointee serves until the next regular election date. Article 24.

A member elected to fill a vacancy shall fill out the term of his predecessor. Article 8.

Those persons having the right to vote for a member have the right to ask for his dismissal. The procedure is the same as the demand for the dismissal of a member of the city assembly. Article 29.

The determination of qualifications of a member of the Board, together with his right to resign, is the same as a member of the city assembly except that the chairman of the Board cannot give permission to resign. Article 30. Articles 126, 127 and 128, Law Concerning Local Autonomy, Law No. 67, 1947, as amended.

The following classes of persons cannot concurrently be a member of the Board.

(a) A member of the Diet.

(b) Members of prefectural local assemblies (excluding the member to be chosen by and from the city assembly.

(c) National public officials.

(d) Paid employees of local public bodies.

(e) Members of the prefectural Board of Education.

(f) Chief of a local public body.

(g) Educational public service personnel.
Article 10.
Law for the Special Regulations Concerning Educational Public Service, Law No. 1, 1949.

ADMINISTRATION

A chairman and vice-chairman shall be elected by the Board for a term of one year, subject to re-election, and the chairman shall preside over the meetings, with the vice chairman acting for the chairman if necessary. Article 33.

The Board convenes at the call of the chairman. Article 34.

If two or more members may make a request in writing designating the matter for discussion, then the chairman is obligated to convene an extraordinary session. Article 34.

The chairman must give three days notice before he convenes a session, unless it is emergency in character, and must announce the date, place and agenda. Article 34.

Ordinary sessions of the Board shall be at least once a month while extraordinary sessions called for a specific purpose may be held as required. Emergency matters may be taken up at any meeting. Article 34.

The board members are entitled to remuneration and reimbursement for expenses in an amount fixed by the city assembly but shall not receive a salary. Article 31.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NNDG # 773 012

A quorum shall consist of a majority of the members unless upon the second call there is still not a majority present then those present shall constitute a quorum. Article 36.

All meetings shall be public except that a secret meeting may be had on motion of a member and a successful vote of at least two-thirds present. This motion shall be voted on without discussion. Article 37.

All proceedings shall be decided by a majority vote of those members present. Article 38.

Members will not participate where their personal affairs or their family interests are involved, but they may attend and speak. Article 39.

The Board shall establish rules for the meeting and the conduct of spectators. Article 40.

The Board shall appoint a superintendent of education who shall have professional educational requirements and shall take charge of all the educational affairs of the Board, subject to its guidance and control. He is appointed for four years. Articles 41 and 42.

When all the Board members are absent from the city, the superintendent of education shall execute the business of the Board by proxy and shall report any action to the Board at the next meeting. Articles 64 and 65.

The Board shall have a secretariat with trained personnel to handle certain technical matters and business affairs. The number of personnel is fixed by by-law of the city assembly and are appointed by the Board upon recommendation of the superintendent of education. Articles 43, 44 and 45.

DUTIES AND RESPONSIBILITIES

The Board shall take charge of and execute the educational, science and cultural affairs which were formerly under the authority of the mayor. Article 4.

The Board shall have control over all schools and other educational institutions established by the city. Article 48.

Boards have no jurisdiction over higher educational institutions or private schools. Article 4.

The Board is not subject to administrative or operational control by the prefectural Board of Education or the Minister of Education except as provided by law. Article 55.

The Board, subject to by-law of the assembly, may decide the number of teachers and other personnel in addition to the number that might be required by law or cabinet order. Article 66.

The Board shall take charge of the following matters consulting, where necessary, the superintendent of education and receiving his advice and recommendation:

(1) Matters involving the establishing and abolishing of schools and other educational institutions;

(2) Matters concerning operation and control of schools and other educational institutions;

(3) Matters concerning the curriculum content to be taught and their treatment;

(4) Matters concerning selection of textbooks;

(5) Matters concerning the employment and dismissal and other personnel affairs of principals and teachers based upon the provisions of the other law which shall provide for concerning the employment, dismissal, etc. of the educational public officials;

a. "Other law" refers to the Law for the Special Regulations Concerning Educational Public Service, Law No. 1, 1949;

(6) Matters concerning the employment and dismissal and other personnel affairs of the staffs of the Board of Education and schools and other educational institutions;

(7) Matters concerning the labor union organized by teachers and other educational employees;

(8) Matters concerning establishment and change of school site; and repair and preservation of the school and other buildings as well as supervision of construction;

(9) Matters regarding instructional materials and equipment;

(10) Matters regarding legislation, amendment and repeal of regulations of the Board.

(11) Matters concerning revenue and expenditure under jurisdiction of the Board;

(12) Matters concerning the control of basic property and reserve fund for educational purposes;

(13) Matters concerning contracts with other Boards of Education for educational affairs;

(14) Matters concerning social education;

(15) Matters concerning study and self-improvement of principals, teachers and professional educational personnel;

(16) Keep certificates and official documents;

(17) Matters concerning investigations and statistics concerning education;

(18) Matters concerning educational affairs of the community under its jurisdiction not otherwise prescribed by law. Article 49. Article 5, The Social Education Law, Law No. 207, 1949.

The Board may not:

(1) Issue certificates to educational personnel.

(2) Approve text books for use. Article 50.

The Board may appoint an advisory committee of Social Education to give advice to the Board through the Superintendent of Education on matters concerning social education. Articles 16 and 17, Social Education Law, Law No. 207, 1949.

The Board shall appoint the manager, officers and advisory committee for the citizens public hall. Articles 28 and 29, Social Education Law, Law No. 207, 1949.

Funds approved in the budget shall be allocated to the Board and shall be under its control and it shall issue orders to the treasurer to expend the money. Articles 59 and 60.

RELATIONSHIP WITH THE MAYOR

Expenses necessary for the conduct of the business of the Board's operation will be paid by the city and a subsidy may be made by the national government. Articles 5 and 6.

The Board shall prepare the budget and submit it to the mayor. Article 56.

The Board must be asked for an opinion by the mayor if he reduces the budget. Article 57.

The Board of Education shall transmit to the chief of the local public body the draft of the measure concerning the following items which are subject to the approval of the assembly concerned by laws and regulations:

(1) Matters concerning the establishment, control and disposal of basic property and reserve fund for educational purposes;

(2) Matters concerning local bonds for educational purposes;

(3) Matters concerning tuition and other educational rental rates and charges;

(4) Matters concerning legislation, or revision and repeal of the by-law as provided for in paragraph 3 of Article 31, paragraph 3 of Article 45, and paragraph 2 of Article 66. Article 61.

The Board must give an opinion to the mayor if the mayor contemplates any changes on matters to be presented to the assembly.

The Board is entitled to have its original draft of matters presented to the assembly along with the mayor's revision. Article 62.

RELATIONSHIP WITH OTHER EDUCATIONAL AGENCIES

The Local Boards of Education within a prefecture and the prefectural Board of Education may establish a council in order to decide personnel affairs such as appointment and dismissal and allowances of principals and teachers and other common necessary matters. Article 51.

Upper secondary schools of a prefecture may be transferred to a city or vice versa if the respective Boards of Education agree. Article 48.

The Board, upon request, shall submit annual reports and other necessary educational reports to the prefectural Board of Education or the Minister of Education. Article 55.

REPORTS

A member of the Board must appear before the city assembly and make explanations as to the work of the Board if requested by the chairman of the assembly. Article 121, Law Concerning Local Autonomy, Law No. 67, 1947, as amended.

A Board must act on petitions adopted by the city assembly and forwarded to the Board for action. A report must be made to the assembly of the progress and result. Article 125, Law Concerning Local Autonomy, Law No. 67, 1947, as amended.

INSPECTION COMMISSION

Note: All references are to articles in the Law Concerning Local Autonomy, Law No. 67, 1947, as amended, unless otherwise noted.

APPOINTMENT, QUALIFICATION AND TENURE

A city may have an inspection commission consisting of four members if authorized by by-law. Article 195.

The commission is appointed by the mayor with the consent of the assembly from among the members of the assembly and persons of special knowledge and experience in equal number. Article 196.

The term of a commissioner shall be two years, except that the term of the commissioners appointed from the assembly shall not exceed his term in the assembly. Article 197.

A person cannot be appointed a commissioner if:

(1) He has been adjudged incompetent or quasi-incompetent:

(2) He has been sentenced to imprisonment with or without hard labor and has neither finished the execution of such punishment or ceased to undergo the same.

Likewise if he has become one of the above he shall be ineligible to remain as a commissioner. Articles 20, 164, and 201.

A commissioner shall not concurrently be:

(1) A paid official of a local public body;

(2) Generally educational public service personnel;

(3) A public procurator;

(4) A police official, either national or local;

(5) A revenue official;

(6) A member of an assembly of a local public body except as provided by law;

(7) A member of a public safety commission;

(8) A member of the Diet.
Articles 21, 92, 196, and 201.
Article 101, National Public Service Law, Law No. 120, 1947, as amended.
Article 21, Law for the Special Regulations Concerning Educational Public Service, Law No. 1, 1949.
Article 39, The Diet Law, Law No. 79, 1947.

VACANCIES

A commissioner is subject to dismissal if one-third of the voters

under their joint signature make a demand for his dismissal upon the mayor and, after the demand is made public, the mayor submits the demand to the assembly which votes in favor of the dismissal. This vote requires a favorable vote of three-fourts of the members present with the quorum being two-thirds of the existing number. Articles 86 and 87.

A vote for dismissal by the assembly cannot be held if the appointment of the commissioners was made within six months or if, within the same time, a previous vote for dismissal had been held. Article 88.

A commissioner must obtain the approval of the mayor to resign. Article 198.

A member of the commission may not enter into a contract with the city nor be an officer or director of a corporation or association which has a contract or is required to do work which the city pays the expenses. Articles 142 and 201.

A commissioner must hand over his affairs within twenty days from the time he vacates the office. Article 122, The Cabinet Order Concerning the Enforcement of the Local Autonomy Law, Cabinet Order No. 16, 1947, as amended.

ADMINISTRATION

A commissioner elected from the assemblymen is entitled to remuneration and reimbursement of expenses in an amount fixed by by-law. Article 203.

The commissioners who have been appointed from among those having experience, including the clerks, are entitled to salary and traveling expenses as provided by by-law. Article 204.

The commissioners appointed from the assembly and the clerks are entitled to a retiring allowance, compensations for termination of office and compensation for death or allowance to the surviving family. Article 205.

A commissioner in regards to status, duties and disciplinary punishment is subject to the public service law. Articles 192 and 201.

Clerks may be appointed by the mayor to assist the commission and they shall be under its supervision. The full number is regulated by by-law. Article 200.

The clerks of the commissioners are appointed and removed by the mayor and are subject to the law for officials of the local public body. Articles 172 and 201.

A commissioner shall be subject to the direction and supervision of the mayor. Articles 154 and 201.

DUTIES AND RESPONSIBILITIES

A commission must make an inspection of any matter carried on by the city if a written demand signed jointly by one-fiftieth of the voters is made. The commissioner will make public the demand and proceed to inspect and as to the result inform the representatives of the demandents, give public notice and report to the city assembly and the mayor. Article 75.

A commission shall inspect the management of any enterprise carried on by the city, the administration of the budget and any other affairs of the city. This inspection should be made at a date fixed by the commission at least once a year. Article 199.

The commission shall conduct an audit of the receipts and expenditures each month and an extraordinary audit shall be made twice a year. Article 240.

The commission shall examine the final documents pertaining to the receipts and expenditures at the end of the fiscal year and render an opinion for the mayor and assembly. Article 242.

If the inhabitants of the city consider the mayor, the treasurer or other officials to be squandering public funds or property, making misapplication of designated public funds creating illegal debts or executing and enforcing unlawful or ultra vires contracts, they may make a demand upon the commission for an inspection and to take measures to restrain, enjoin and prohibit the act. The commissioner must make the inspection within twenty days and if the demand is sustained the commission shall order the mayor to restrain, enjoin or prohibit the action and notify the inhabitant who made the demand. The commission shall receive a report from the mayor as to the action taken. Article 243 and 2.

The commissioners may make their own inspection at any time. Article 199.

A member of the commission must appear before the city assembly and make explanation as to the work of the committee if requested by the chairman of the city assembly. Article 121.

The commission shall receive from the mayor balance sheets and other necessary documents concerning the enterprises of the city and, upon examination, render an opinion to the mayor for the assembly. Article 244.

The results of the inspection shall be reported to the governor or the city assembly or mayor, whoever made the demand, and all results shall be made public. Article 199.

A commission shall upon demand of the governor or the assembly make a special inspection of the subject of the demand. Article 199.

The commission must act on petitions adopted by the city assembly and forwarded to the commissioner for action. A report must be made to the assembly of the progress and result. Article 125.

APENDIX I

CITY PLANNING

WHAT IS CITY PLANNING?

Good city planning aims to bring about order in the physical development of a city, town or village. It brings the city government and its citizens together in preparing for their own futures needs and for the probable requirements of their commerce and industries.

City planning may be good or bad. It is good where it is based on a good plan and where public and private developments are in harmony with that plan.

Bad planning is less often the result of a bad plan than of piecemeal planning, when the layout of a new subdivision, the location of a public building, and so on, are regarded as separate problems without regard to the layout of the city as a whole.

WHAT IS A CITY PLAN?

Since orderly development is the objective, the plan must anticipate probable future needs of the community well in advance as well as record existing development. Preparing the plan, therefore, involves studies of the trend of growth in residential, business and industrial uses of land and the most desirable directions for such growth.

It should include a good zoning ordinance to minimize conflicting and mutually injurious uses of land.

It is concerned vitally with movement of all types to and from the city and within it.

All comprehensive city plans give a prominent place to recreational facilities. The plan deals with the general location of public buildings of all types, including the city hall, schools, and fire and police stations.

The main features of the plan will ordinarily be stable, but it can and should be amended and developed as changing conditions demand.

HOW IS THE PLAN GIVEN EFFECT?

The plan is given effect by actions of both the city government and its citizens. Usually a city planning commission is set up and given advisory powers, with general responsibility for seeing that the plan is prepared and carried out. With the commission's advice, the city council and the city departments are the agencies which actually authorize and construct streets and other public works, acquire parks and playgrounds, and locate and erect public buildings. The council must enact the zoning ordinance before it becomes effective and the executive branch enforces it.

PLANNING RESTS ON LEGAL BASIS

Every square foot of land within a municipality is impressed with legal qualities, which are often more lasting than pavements or buildings or other physical structures. Once a strip of land becomes dedicated to the public as a street or park, it is likely to remain a street or park for centuries. The location of street railways, sewers, water-supply systems, gas and electric conduits, and overhead wires is based on legal sanctions.

The legal status given to land within a city forms the basis of a plan whose value to the community depends mainly on the forethought that was used in the past in assigning legal qualities to land.

TRANSPORTATION

The location of street railways, bus lines, railways, waterways, and their terminals is itself one of the most important planning problems.

THE STREET PLAN

The local government of a community controls the streets which are its arteries. A comprehensive plan furnishes a program for street changes and development, with the most urgent steps first on the list. It shows what land must be preserved for principal streets and how the opening of new streets will affect traffic elsewhere.

GENERAL REQUIREMENTS FOR THE STREET SYSTEM

A system of wide, well-arranged thoroughfares is basic to good city planning. They should lead from the central part of the city to outlying territory, and there should be belt streets affording direct travel between one section and another without passage through the central business district.

Without a city plan and the machinery to enforce it, a whole section of a city may be crippled, and inconveniences may be heaped on thousands of people for years to come by a new residential development in which the blocks run the wrong way or the main streets are too narrow, or by the arbitrary location of a factory or a cemetery.

The determination of principal routes for present and prospective traffic permits a consistent scheme for city development to be laid out to accommodate industry, business, and residence.

THE APPROACHES TO THE CITY

Under modern conditions, a community may be approached by highway, by railroad, by watercourse, by airway, or by a combination of these four methods. All approaches of whatever kind must be planned to be as effective as possible and to take care of the future needs of the city.

THE CENTRAL BUSINESS AND SHOPPING DISTRICT

Free movement to the central business and shopping district concerns the entire community, the housewife, and the merchant alike.

Conditions in the central business district cannot be improved overnight. The necessity for expensive undertakings in the future may be avoided or diminished by a well considered city plan.

WHOLESALE AND WAREHOUSE DISTRICTS

Wholesale and warehouse districts, under ideal conditions, should be located directly between the water or railroad terminals and the manufacturing or commercial area which they serve.

INDUSTRIAL DISTRICTS

A city gets along much better when homes and industry are kept separate but are at the same time easily accessible to each other.

PRODUCE MARKETS

The handling of porishable foodstuffs from their arrival in a city by freight car or truck to scattered retail stores is a very complex problem. If the distribution is prompt and efficient the people can obtain their food fresher and at lower prices. A well-planned wholesale market, accessible to cars from all railroads and to the trucks of local farmers, is usually the first item.

LOCATION OF PUBLIC BUILDINGS - CIVIC CENTERS

The dignity and attractiveness of a community and the convenience of its citizens may be served by thoughtful location of public and semi-public buildings. In smaller communities the principal public buildings may form a single group, while in larger cities there may be a principal civic center, a principal educational and art center, and a number of outlying community centers.

RESIDENTIAL DISTRICTS

In most communities the districts where the people dwell are far greater in area than those in which they work and do business.

Certain appurtenances go with every residential district. Neighborhood stores should be grouped at points convenient to all, but either they should be off the main traffic highways or arrangements should be made through widening the roadways, or providing other parking spaces, so that they will not cause congestion of through traffic.

The location of schools is even more important. The type of site usually desired will be convenient to the families that are expected to move into the neighborhood, and at the same time be off the main thoroughfares with their noise, confusion, and dangers from heavy traffic. Ample space is needed around schools for playgrounds as well as for light and air.

THE OUTSKIRTS OF THE CITY

Foresight in planning sparsely built up territories, particularly those on the outskirts of the city, is important not only for its inherent benefits to the new localities, but for the convenience of all who pass through them, and for its effect on conditions at the center of the city.

PARKS AND PLAYGROUNDS

Adequate recreation space, although often overlooked, is of great importance to a community, and provision for it rightly belongs in a good plan.

The need of more public open spaces of all kinds is one of the consequences of apartment house living and must be borne in mind as apartment house areas develop.

A great country park, desirable as it is, is now generally recognised as a supplement to, not a substitute for smaller parks convenient to the people who need ready access to trees, grass, and open space. Thus all the breathing spaces for fresh air and sunshine provided by recreation space are an integral part of a city plan.

Public recreation facilities are as important to the village as to the large city.

CARRYING OUT THE CITY PLAN

The preparation of a good city plan requires skillful handling of details, clear vision into the future, good judgment in deciding what is practicable, and a spirit of fair play in adjusting interests that may appear to conflict.

Placing the general responsibility in the hands of a continuing body of well-informed, influential men is the best means so far devised for securing efficiency in city planning.

CITY PLANNING COMMISSION AND ITS WORK

A spearately organized city planning commission is usually the best agency for assuming the general responsibility for preparing the plan and to aid the city government and private individuals in carrying out its essential feature. Such a commission usually consists of from five to eleven members.

It may include the mayor, the city engineer, a representative of the city council or similar body, and prominent citizens serving without pay. The citizen members should always be in a majority.

The commission should be authorized by the city council to expend funds for preparing a plan, and to call on all municipal officials, including the city engineer, the city attorney, and others, for advice and data. The city council, in turn, ordinarily derives its powers to grant such authority from an enabling act passed by the state legislature.

Where such authority has not been granted, unofficial commissions sometimes appointed by the mayor or sometimes representing unofficial civic bodies, may be organized, and often accomplish a great deal, particularly if they succeed in raising private funds for preparing a plan.

The official city planning commission should not be charged with executive functions, such as the administration of the park system or some of the usual construction or administrative functions of the city. Past experience indicates that such duties are better left in the hands of regular executive and administrative departments.

Since the city planning commissions final responsibility is to see that a good city plan is carried out, one of its functions is to determine how the city's financial resources and expenditures may best provide for its planning needs.

TECHNICAL PLANNING SERVICE

The commission requires competent technical service, not only when the first comprehensive survey is made, but later. A city planner who has acquired wide experience in dealing with the problem of other cities is usually employed to prepare or to direct the preparation of a general city planning report.

It involves having adequate topographic maps, and maps showing existing streets, transit facilities, railroad and water transportation lines and terminals, parks and other recreational facilities, and building development, as well as studies of traffic movement, population growth, and the like.

In the final stages of preparing a comprehensive plan the comission makes a careful study, and arranges for public hearings. It then adopts a plan. The commission will continue to need technical aid after the plan is adopted. Formal adoption of the plan by the commission distinguishes its nature and recommendations and puts on record a recognized guide for officials and citizens.

EXECUTING AND FINANCING THE PLAN

Once the plan is adopted, it should be followed, subject to amendment, unless the city council or other local legislative body takes specific action to the contrary. In some states a vote of a majority of the full membership of the council or some other portion more than a majority is required before the council may overrule the planning commission on departures from the plan. Such a provision is an advisable protection of the plan.

The adopted city plan is not to be lightly set aside or altered.

The commission should recommend the order in which public improvements ought to be made, and may well suggest ways of financing them with a fair distribution of cost between the government and owners of specially benefited private property.

ZONING

A zoning ordinance is a vital part of city planning.

A well drawn zoning ordinance, adopted after all interests have had full opportunity to state their opinion, results in such utilization of land that each neighborhood can maintain or promote its appropriate use.

Zoning protects the home owner from unnecessary loss through intrusion of factories or apartments into his neighborhood, it stabilizes property values, it reduces taxes, and it avoids the waste arising from misplaced construction.

A CITY PLAN ELIMINATES WASTE

By anticipating the probable needs of the city for streets, parks, playgrounds, schools, and police and fire stations, the city can save large sums through securing its rights and purchasing land before it is built up.

A city may often save much of the cost of widening streets, where the need is plainly indicated, by requiring or encouraging all new structures to be set back a given distance from the street line.

Most real estate men, land development companies, persons proposing to erect large buildings, and the like, welcome a city plan for it enables them to proceed with greater confidence and assurance that their investments in improvements will be of a more permanent and desirable character.

A CITY PLAN PROMOTES SAFETY

A city plan frequently provides for the utilization of stream beds, parkways, and boulevards to divide a city into several districts which greatly reduces the dangers of a general conflagration in the city.

Through good planning of street intersections and of transit facilities, it helps to reduce traffic accidents.

REGIONAL PLANNING AND THE BORDERLAND BEYOND THE CITY

There is no real line of separation, no "twilight zone," between interests of the city and of the country surrounding it. Obviously the plan of the city and that for surrounding territory should be consistent.

To some suburbs and towns the maintenance of clear roadways and good rapid transit facilities which pass through other jurisdictions is of most vital importance. Inadequate approaches to an important bridge in one municipality may become an intolerable burden to the citizens of others.

Objectionable uses of land in one community may adversely affect another, as in the case of slaughterhouses with their offensive odors, or of factories set directly next to a city residence district.

Voluntary regional planning bodies are proving helpful in a number of regions; and even without them, the planning authorities of one city may always cooperate with those of neighboring local governments and with principal landowners. Such contact may, for example, serve to coordinate highway improvement programs and secure conformance to an extension of the major street plan in new subdivisions beyond the city limits.

CONCLUSIONS

1. American cities have found that following a well-considered city plan is far superior to the usual haphazard growth.

2. The cost of preparing such a plan is so reasonable and its advantages are so great that the arguments for it are unanswerable.

3. A good plan is devised with the public welfare in mind. It promotes the legitimate interests of (a) householders, (b) business and commerce, (c) manufacturing, (d) public utilities, and (e) the city as a landowner.

4. City planning improves the street and transportation systems for persons and merchandize within the city, and to and from the city.

5. A plan aids citizens in selecting and developing land for houses, business, and other purposes by showing the relation of different districts to one another.

6. The zoning ordinance, which belongs in every city planning program, protects the public health, convenience, and safety, and secures the owner who invests in sound improvements in harmony with the plan.

7. A good park and playground program, which the citizens of every community owe their children and themselves, is best achieved through a comprehensive planning program.

8. To obtain such results, the plan must be consistently carried out during a long period of years. This ordinarily requires:

   (a) A responsible and continuing planning commission, with a technical force to prepare the plan and to keep it up to date.

   (b) Public hearings at which all citizens or property owners may be heard while the original plan is being made and at intervals thereafter.

   (c) Cooperation of the officials and employees of city departments.

   (d) Careful adherence to the plan, and consideration of the planning commission's advice by the city council or other legislative body making appropriations for public works, approvals of street layout, purchases of city property, and other matters affecting the city's physical development.

   (e) Contact with neighboring governmental agencies to secure coordination within the region.

9. Support of the city plan by citizens is needed and is ordinarily given generously! They may:

   (a) Consider the broad features of the plan in selecting and developing sites for various purposes.

   (b) Support adequate appropriations for the preparation of a comprehensive plan.

   (c) Support the city council in measures to execute the plan.

   (d) Encourage other property owners to conform to the plan, and

   (e) Personally advocate city planning.

APPENDIX II

NOTES ON THE CITY GOVERNMENT OF NEW YORK

New York City has an area of 320.26 miles or 204,982 acres. A part acreage of 22,551 and laid out miles of street 5,719. The Department of Health gives the estimated population 1 July 1948 at 7,887,748.

New York City, because of its greatness in size, and the relative dispatch with which the metropolitan affairs are executed, serves as a good example of city government. A summary of authority and functions of the chief agencies of government and their relations with one another is given.

The Board of Estimate

The Board of Estimate is composed of the following officers: The Mayor who is the chairman, the City Controller, the President of the Council and the five borough presidents. When the mayor is absent the president of a Council presides. Somewhat different from other agencies of government a voting table is established for the Board which means that each member has a specific number of votes allotted to him. Mayor... 3, Controller...3, President of the Council...3, Borough of Manhattan.... 2, Borough of Brooklyn...2, Borough of Bronx...1, Borough of Queens...1, Borough of Richmond...1. A quorum for the Board consists of nine votes in which a minimum of two members with the power to cast three votes each must be present. It is because of the manner in which the expense budget and the capital budget are proposed, drafted and enacted that shows the power of the Board of Estimate. The position of the Board of Estimate along with that of the Council gives the City of New York, not only in law but in practice also, a bi-cameral system.

The Council

The number of members of a Council is dependent upon the total number of votes cast in each borough, the ratio being one councilman for every 75,000 valid votes cast. If there is a remainder of 50,000 votes or more, one additional councilman may have a seat on the council. This means that a number of councilmen who are elected at Council at each election varies. Today there are 23 councilmen, Manhattan...5, Bronx...5, Brooklyn...8, Queens...4, and Richmond...1. It is because of this system that 2 Communists were elected to the Council. One in Manhattan and one in Brooklyn. In the 1947 general election the voters of New York City abolished this system of proportional representation and a charter section now provides for the voters to elect one councilman for each senate district wholly within the city. Thus the Council will be composed of 25 councilmen, a fixed number. Manhattan...6, Bronx 5, Brooklyn...9, Queens...4, and Richmond...1. The Council exercises the legislative power of a city with the soul power of adopting local law. No councilman can be an employee of any city agency in any capacity whatever. It is also the judge of the qualifications of membership, having the power to expel by a 2/3 vote of all councilmen (not just a quorum). When vacancies occur within the year a majority vote of all the councilmen can elect a candidate to fill out the year. It is required that a general election will fill the vacancy for the unexpired term.

The Boroughs

New York City has 5 boroughs. Manhattan which in a general election of 6 November 1945, had a total of 390,662 valid ballots cast (total blank and invalid 77,164); the Bronx 369,701 (blank and invalid 66,633); Brooklyn 595,882 (blank and invalid 111,038); Queens 343,647 (blank and invalid 36,715); and Richmond 42,104 (blank and invalid 3,998). Each borough has a president who must be a citizen of the United States and a resident of the borough at the time of his election and during his office. The president is removed by the Governor of the State of New York upon charges after a hearing. When vacancies occur the councilmen of the borough concerned are called into an executive session by the mayor of the city to elect a new borough president for the remainder of that year only. The mayor only votes in case of a tie. At the next general election a candidate is elected for the unexpired term.

Steps of Procedure in the Expense Budget

The fiscal year of the City of New York begins 1 July and ends at midnight 30 June. The particular steps of the budget are as follows:

1. The mayor sets particular dates not later than 1 February of each year for which each department must submit estimates for the fiscal year.

2. Not later than 15 February the controller must submit to the Board of Estimate and to the Council statements concerning: a. general fund receipts, b. uncollected taxes, c. condition of the tax deficiency account, d. condition of the street and park opening fund, and e. a schedule of appropriation required for debt service. These statements are immediately published in the City Records.

3. By 1 March the president of the tax commission has to submit an estimate of the assessed valuation of taxable real property for the ensuing fiscal year to the Board of Estimate and the Council. This estimate is also published in the City Record.

4. By 1 April the mayor must submit his Executive Budget to the Board of Estimate and the Council. This Budget is printed in book form and it does not appear in the City Record.

5. During the ten days period, 7 April to 17 April, the Board of Estimate conducts public hearings on the Executive Budget. Except for legally fixed funds, the Board can increase, decrease, add or omit items.

6. During the period 17 April to 27 April, the Board of Estimate must adopt a budget. If it fails to do so by 27 April, the Executive Budget is by law considered adopted.

7. By 1 May the Board of Estimates adopted Budget must be certified by the mayor, submitted to the Council and printed in the City Record.

8. Except for legally fixed sums the Council can reduce or omit any item. The Council has no power however, a. to add or increase items or b. to vary titles, descriptions or terms or conditions.

9. By 22 May the Council must have enacted the Budget, certified by the president of the Council and submitted it to the mayor.

10. The mayor can put back any items the Council omits or reduces. He then must return the Budget with an explanation justifying his actions to the Council before 1 June.

11. Before 10 June the Council may over-ride the mayor's veto by a 3/4 vote of all the members of the Council.

12. By 15 June the Budget must be finally adopted, certified by the mayor, the controller, the city clerk, filed in the controller's office, and published in the City Record.

The mayor is the chief executive of the office of the city and also magistrate. He is removed by the governor upon charges after a hearing. Should a vacancy occur in the office the president of the Council acts as mayor for the remainder of the year only. Should there be a vacancy in both the office of mayor and president of Council, the vice chairman of the Council acts as mayor. At the next general election the vacancy is filled for the unexpired term.

The Board of Elections

The Commissioners of the Board are appointed by the Council upon recommendation of the two major political organizations in New York and Kings County. The Commissioners serve a term of four years and continue until their successor is appointed and has qualified. The present Board is composed of 2 Democrats and 2 Republicans. The president and secretary of the Board are selected by the Board and cannot be of the same party. The Board has a chief clerk and a deputy, and one office in each of the 5 boroughs.

Board of Education

Seven members appointed by the mayor compose the Board. Each serves a term of seven years and until a successor is appointed and has qualified. Each member must have been a qualified voter in the borough for three years immediately preceding his or her appointment. They receive no salary. The member is removable by the mayor upon stated charges after a hearing. The vacancies are filled for the unexpired term. The president and vice president of the Board are elected from among the members, and they serve for 1 year.

The superintendant of schools is elected by the Board of Education for a six year term as the chief executive of the Board and the Educational System. Although he has a seat on the Board he does not vote. The associated superintendant and the assistant superintendant are appointed by the Board of Education on nomination of the superintendant. The associates are appointed for six years; the assistants have permanent tender after a three year trial period. The superintendant, the associates and the assistants are removable by the Board of Education upon stated charges after a hearing. None of these officers can contribute money to any fund which may directly or indirectly affect legislation increasing their salaries.

Each borough has a city local school board of five members each appointed by the Borough President and serve five year terms and until a successor is appointed and has qualified. The members are removed by the mayor after stated charges in a hearing. Vacancies can be filled for the unexpired terms by the President of the Borough. The Borough of Manhattan has 14 local school boards. The Bronx has 10; Brooklyn has 20; Queens has 8 and Richmond 2. The majority of the total 54 boards have at least 2 women members.

APPENDIX III

SUGGESTIONS FOR A MAYOR'S REPORT

"A Report to the People for 1948 by the Mayor of Honolulu."

CONTENTS

General statement on achievements during year.

Report on:

Board of Supervisors

Personnel - Two new members

Statehood for Hawaii

Benefits
Outlook optomistic

Waikiki Beach

Ultimate acquisition by the city of all privately owned property along the beach.

Housing

Rehabilitation and development of blighted areas

Off-street Parking

Acquisition of down town area for 1000 cars
Ultimate plan - underground parking

Traffic Congestion

Physical solutions and education of pedestrians and drivers

Municipal Radio Program

Half hour donated by radio station to bring the government closer to the people, given on week day at request of schools in teaching civil government.

Municipal Offices

Acquired more office buildings

Financial Conditions

Your revenues and where they are used - - this can be put in chart form.

Office of the Clerk

Functions

Clerical assistance to the Board of Supervisors
Recording and Reporting
Registration of Voters
Pension Administration
City and County Pension Board

Personnel
Summary of Report of the City and County Clerk as ex-officio secretary of the Board of Supervisors, showing all documents passing through this department during the calendar year 1948 and four years prior thereto.

Office of the Auditor

Office of the Sheriff

City and County Jail
Coroner's Division
Weights and measures Division

Office of the Attorney

Office of the Controller

Building Code

Emphasis on fire - safe buildings rather than on fire-proof buildings - most distinctive feature

Kalihi Tunnel

The estimated cost of the project is about $6,000,000 and will probably take about three years for completion.
Map showing 97 miles of re-surfaced streets under Department of Public Works

Department of Public Works

Plans
Sewers
Refuse Collection and Disposal
Road Maintenance
Suburban Water
Street Lighting
Traffic Safety
Automotive Equipment Service
Service

Board of Water Supply

Office of the Public Prosecutor

Health Department

Planning for Honolulu

City planning now is a recognized vital function of American government. Planning is essentially a process of determining inter-relationship and coordination of various ways in which urban land is used for business, industry, residence, recreation and circulation to the end that they function together with the greatest of efficiency and non-interference. Long

Personnel
Summary of Report of the City and County Clerk as ex-officio secretary of the Board of Supervisors, showing all documents passing through this department during the calendar year 1948 and four years prior thereto.

Office of the Auditor

Office of the Sheriff

City and County Jail
Coroner's Division
Weights and measures Division

Office of the Attorney

Office of the Controller

Building Code

Emphasis on fire - safe buildings rather then on fire-proof buildings - most distinctive feature

Kalihi Tunnel

The estimated cost of the project is about $6,000,000 and will probably take about three years for completion.
Map showing 97 miles of re-surfaced streets under Department of Public Works

Department of Public Works

Plans
Sewers
Refuse Collection and Disposal
Road Maintenance
Suburban Water
Street Lighting
Traffic Safety
Automotive Equipment Service
Service

Board of Water Supply

Office of the Public Prosecutor

Health Department

Planning for Honolulu

City planning now is a recognized vital function of American government. Planning is essentially a process of determining inter-relationship and coordination of various ways in which urban land is used for business, industry, residence, recreation and circulation to the end that they function together with the greatest of efficiency and non-interference. Long

56. The Organizations Control Order; Cabinet Order No. 64, 4 April 1949.

Enforcement Regulation of the Organizations Control Law; Attorney-General's Office Ordinance No. 38, 1949.

57. Cabinet Order Concerning Prohibition Against Organization, Offices, and Other Matters relating to Chonaikai, Burakukai or Federations thereof and others, in accordance with the Imperial Ordinance with reference to the Orders to be issued in consequence of Acceptance of the Potsdam Declaration: Cabinet Order No. 15, 3 May 1947.

Temporary Measures to be taken in Consequences of the Letter of SCAP to the Prime Minister, dated 22 July, 1948, Cabinet Order No. 201, 31 July, 1948.

2388

42. The School Education Law; Law No. 26, 31 March 1947;
Amended by: Law No. 133, No. 170, 1948.

43. The Second Hand Business Law; Law No. 108, 28 May 1949;
Enforcement Regulation of the Second Hand Business Law;
Prime Minister's Office Ordinance No., 1949.

44. The Social Education Law; Law No. 207, 10 June 1949.

45. The Law Concerning the Special Case of the Local Distribution Tax Law; Law No. 45, April 30, 1949.

46. The Special City Planning Law; Law No. 19, 10 September 1946;
Amended by: Law No. 71, 1949.

Enforcement Ordinance of the Special City Planning Law;
Imperial Ordinance; No. 422, 1946.
Amended by: Imperial Ordinance No. 593, 1946; Cabinet Order No. 166, No. 245, 1948; No. 96, 1949.

47. Law for the Special Regulations Concerning Educational Public Service: Law No. 1, January 12, 1949.

48. The Staple Food Management Law; Law No. 40, 21 February 1942:
Amended by: Law No. 53, 1943, No. 4, 1944, No. 51, 1946; No. 247, 1947; No. 110, 1948.

49. The Statistics Law; Law No. 18, 25 March 1948.

Imperial Order Concerning the Enforcement of the Statistics Law, Imperial Ordinance No. 164, 1947.
Amended by: Cabinet Order No. 2, 1948.

50. The Temporary Business Control Law; Law No. 52, 7 May 1949.

Enforcement Regulation of the Temporary Restaurant Business Control Law; Agriculture & Forestry Ordinance No. 34, 1949.
Instruction on the Management of the Temporary Restaurant Business Control Law; E.S.B. instruction No. 19, 1949.

51. The Temporary Demand and Supply Adjustment Law; Law No. 32, October 1, 1946.
Amended by: Law No. 23, 1947; No. 16, 1948.

52. The Welfare Commissioner Law; Law No. 198, 29 July 1948.

Cabinet Order Concerning the Enforcement of the Welfare Commissioner Law; No. 226, 10 August 1948.

53. The Worker's Accident Compensation Insurance Law; Law No. 50, 5 April 1947.
Amended by: Law No. 71, 1948; No. 82, 1949.

54. Aliens Registration Ordinance, Imperial Ordinance No. 207, 2 May 1947.

Enforcement Regulation of the Aliens Registration Ordinance, Home Affairs Ministry Ordinance No. 28, 1947.

55. Fee Regulations for Local Public Bodies; Cabinet Order No. 327, December 30, 1947.
Amended by: Cabinet Order No. 244, 1948, No. 54, 1949.

56. The Organizations Control Order; Cabinet Order No. 64, 4 April 1949.

Enforcement Regulation of the Organizations Control Law; Attorney-General's Office Ordinance No. 38, 1949.

57. Cabinet Order Concerning Prohibition Against Organization, Offices, and Other Matters relating to Chonaikai, Burrkukai or Federations thereof and others, in accordance with the Imperial Ordinance with reference to the Orders to be issued in consequence of Acceptance of the Potsdam Declaration: Cabinet Order No. 15, 3 May 1947.

Temporary Measures to be taken in Consequences of the Letter of SCAP to the Prime Minister, dated 22 July, 1948, Cabinet Order No. 201, 31 July, 1948.

42. The School Education Law; Law No. 26, 31 March 1947;
Amended by: Law No. 133, No. 170, 1948.

43. The Second Hand Business Law; Law No. 108, 28 May 1949;
Enforcement Regulation of the Second Hand Business Law;
Prime Minister's Office Ordinance No., 1949.

44. The Social Education Law; Law No. 207, 10 June 1949.

45. The Law Concerning the Special Case of the Local Distribution Tax Law; Law No. 45, April 30, 1949.

46. The Special City Planning Law; Law No. 19, 10 September 1946;
Amended by: Law No. 71, 1949.

Enforcement Ordinance of the Special City Planning Law;
Imperial Ordinance; No. 422, 1946.
Amended by: Imperial Ordinance No. 593, 1946; Cabinet Order No. 166, No. 245, 1948; No. 96, 1949.

47. Law for the Special Regulations Concerning Educational Public Service: Law No. 1, January 12, 1949.

48. The Staple Food Management Law; Law No. 40, 21 February 1942:
Amended by: Law No. 53, 1943, No. 4, 1944, No. 51, 1946; No. 247, 1947; No. 110, 1948.

49. The Statistics Law; Law No. 18, 25 March 1948.

Imperial Order Concerning the Enforcement of the Statistics Law, Imperial Ordinance No. 164, 1947.
Amended by: Cabinet Order No. 2, 1948.

50. The Temporary Business Control Law; Law No. 52, 7 May 1949.

Enforcement Regulation of the Temporary Restaurant Business Control Law; Agriculture & Forestry Ordinance No. 34, 1949.
Instruction on the Management of the Temporary Restaurant Business Control Law; E.S.B. instruction No. 19, 1949.

51. The Temporary Demand and Supply Adjustment Law; Law No. 32, October 1, 1946.
Amended by: Law No. 23, 1947; No. 16, 1948.

52. The Welfare Commissioner Law; Law No. 198, 29 July 1948.

Cabinet Order Concerning the Enforcement of the Welfare Commissioner Law; No. 226, 10 August 1948.

53. The Worker's Accident Compensation Insurance Law; Law No. 50, 5 April 1947.
Amended by: Law No. 71, 1948; No. 82, 1949.

54. Aliens Registration Ordinance, Imperial Ordinance No. 207, 2 May 1947.

Enforcement Regulation of the Aliens Registration Ordinance, Home Affairs Ministry Ordinance No. 28, 1947.

55. Fee Regulations for Local Public Bodies; Cabinet Order No. 327, December 30, 1947.
Amended by: Cabinet Order No. 244, 1948, No. 54, 1949.

Cabinet Order Concerning the Enforcement of the Law Concerning Local Autonomy; Cabinet Order No. 16, 1947;
Amended by: Cabinet Orders No. 89, No. 264, No. 313, 1947; No. 204, 1948; No. 14, No. 37, 1949.

31. The Local Distribution Tax Law; Law No. 111, 7 July 1948.

32. Local Finance Law; Law No. 109, 7 July 1948;
Amended by: Law No. 26, 1949; No. 168, 1949.

33. The Local Tax Law; Law No. 110, 7 July 1948;
Amended by: Law No. 169, 1949;

The Enforcement Ordinance for the Local Tax Law; Cabinet Order No. 198, 1948;
Amended by: Cabinet Order No. 394, 1948; No. 193, 1949.

34. National Government Organization Law; Law No. 120, 10 July 1948;
Amended by: Law No. 235, 1948; No. 4, No. 123, No. 124, 1949.

35. The National Health Insurance Law; Law No. 60, 1 April 1938;
Amended by: Law No. 70, 1 July 1948.

36. Law Concerning the National Treasury's Share for the Compulsory Education Expenses; Law No. 22, 29 March 1940;
Amended by: Law No. 26, 1947; No. 133, 1948.

37. The Owner-Farmer Establishment Special Measures Law; Law No. 43, 19 October 1946;
Amended by: Law No. 241, 1947;

The Imperial Ordinance Concerning the Owners-Farmer Establishment Special Measures Law; Imperial Ordinance No. 621, 1946;
Amended by: Imperial Ordinance No. 25, 1947; Cabinet Orders No. 36, No. 315, 1948; No. 165, 1949.

38. The Petition Law; Law No. 13, 12 March 1947.

39. The Police Law; Law No. 196, 17 December 1947;
Amended by: Law No. 195, 1947; No. 23, No. 179, 1948;

Cabinet Order Concerning the Enforcement of the Police Law; Cabinet Order No. 51, 1948.
Amended by: Cabinet Order No. 121, No. 129, No. 136, No. 360, 1948; No. 77, 1949.

40. The Law Concerning the Protection of the Government Against Unjust Claims and Others; Law No. 171, 12 December 1947;
Amended by: Law No. 39, 1949.

41. The Road Transportation Law, Law No. 191, 16 December 1947;

Enforcement Ordinance of the Road Transportation Law; Cabinet Order No. 320, 1947;
Amended by: Cabinet Order No. 106, 1948.

Enforcement Regulation of the Road Transportation Law; Prime Minister's Office and Transportation Ministry Ordinance No. 2, 1948.
Amended by: Transportation and Construction Ministry Ordinance No. 1, 1948.

22. The Horse Race Law; Law No. 158, 13 July 1948;
Amended by: Law No. 197, No. 198, 1949;

The Enforcement Ordinance of the Horse Race Law; Cabinet Order No. 242, 1948;
Amended by: Cabinet Order No. 165, 1949.

23. The House Ledger Law; Law No. 31, 31 March 1947;

Enforcement Regulation of the House Ledger Law; Imperial Ordinance No. 114, 1947;

Detailed Enforcement Regulation of the House Ledger Law; Finance Ministry Ordinance No. 35, 1947.

24. The Law Concerning the Improvement and Promotion of Agriculture; Law No. 165, 15 July 1948.

25. The Infectious Diseases Prevention Law; Law No. 36, 1 April 1897;
Amended by: Law No. 56, 1905; No. 32, 1922; No. 102, 1947; No. 223, 1947; No. 11, 1948; No. 68, 1948; No. 81, 1949.

Enforcement Regulation of the Infectious Diseases Prevention Law; Home Ministry Ordinance No. 24, 1922;

Amended by: Home Ministry Ordinance No. 16, 1926; No. 2, 1927; No. 14, 1928; Welfare Ministry Ordinance No. 51, 1942; No. 14, 1947.

26. The Labor Relations Adjustment Law; Law No. 25, 26 September 1946;
Amended by: Law No. 175, 1949;

Enforcement Ordinance of the Labor Relations Adjustment Law; Imperial Ordinance No. 478, 1946;
Amended by: Cabinet Order No. 232, 1949.

27. The Labor Standards Law; Law No. 49, 5 April 1947;

Enforcement Regulation of the Labor Standards Law; Welfare Ministry Ordinance No. 23, 1947.

28. The Land Improvement Law; Law No. 195, 6 June 1949.

29. The Land Ledger Law; Law No. 30, 31 March 1947;

Amended by: Law No. 107, 1948;

Enforcement Regulation of the Land Ledger Law; Imperial Ordinance No. 113, 1947;
Amended by: Cabinet Order No. 198, 1948

Detailed Enforcement Regulation of the Land Ledger Law, Finance Ministry Ordinance No. 34, 1947;
Amended by: Finance Ministry Ordinance No. 73, 1948;

30. The Law Concerning Local Autonomy; Law No. 67, 17 April 1947;
Amended by: Law No. 169, 1947; No. 196, 1947; No. 14, No. 32, No. 52, No. 109, No. 170, No. 179, No. 180, No. 195, No. 216, No. 280, 1948; No. 161, 1949.

8. The Law of the Dissection and the Preservation of the Dead Body; Law No. 204, 10 June 1949.

9. The Law for the Election of Members of the House of Representatives; Law No. 47, 5 May 1925;
Amended by: Laws No. 42, 1945; No. 8, 1946; No. 2, No. 43, No. 154, No. 195, No. 196, 1947; No. 26, No. 194, No. 195, 1948;

Cabinet Order Concerning the Enforcement of the Law for the Election of Members of the House of Representatives; Imperial Ordinance No. 3, 1926;
Amended by: Imperial Ordinances No. 238, 1926; No. 264, 1928; No. 325, 1934; No. 707, 1945; No. 97, 1946; No. 58 1947; No. 116, 1947; Cabinet Orders No. 271, 1947; No. 190, 1948.

10. The Employment Security Law; Law No. 141, 30 November 1947;
Amended by: Law No. 71, 1948.

11. The Law Concerning Enforcement of Land Improvement Law; Law No. 196, 6 June 1949.

12. The Act Concerning the Execution of Duties of Police Officials; Law No. 136, 12 July 1948.

13. The Family Registration Law; Law No. 224, 22 December 1947;

Enforcement Regulation of the Family Registration Law; Justice Ministry Ordinance No. 94, 1947.

14. The Fire Defense Organization Law; Law No. 226, 23 December 1947;
Amended by: Law No. 187, 1948.

15. The Fire Service Law; Law No. 186, 24 July 1948.

16. The Flood Defense Law; Law No. 193, 4 June 1949.

17. The Food Maintenance Temporary Measures Law; Law No. 182, 20 July, 1948;

Cabinet Order for the Enforcement of the Food Maintenance Temporary Measures Law; Cabinet Order No. 247, 1948.

18. The Fundamental Law of Education; Law No. 25, 29 March 1947.

19. The Law Relating to Government Subsidy by the Delivery of the National Bond under the provisions of the Special City Planning Law; Law No. 227, 23 December 1947.

20. The Law Regarding Graveyards, Burials and Others; Law No. 48, 31 May 1948;

Enforcement Regulation of the Law Regarding Graveyards, Burials and Others; Welfare Ministry Ordinance No. 24, 1948.

21. The Health Center Law; Law No. 42, 5 April 1937;
Amended by: Law No. 101, 5 Sept. 1947;

Cabinet Order Concerning the Enforcement of the Health Center Law; No. 77, 1948.

APPENDIX V

LAWS, IMPERIAL ORDINANCES AND CABINET ORDERS

Note: The following is a list of important Laws, Imperial Ordinances and Cabinet Orders pertaining to City Government.

1. The Agricultural Land Adjustment Law, Law No. 67, 2 April 1938;
   Amended by: Law No. 64, 1945; Law No. 42, 1946; Law No. 240, 1947; Law No. 215, 1949.

   Imperial Ordinance Concerning the Enforcement of the Agricultural Land Adjustment Law; Imperial Ordinances No. 36, 1946;
   Amended by: Imperial Ordinances No. 78, No. 95, No. 356, No. 621, 1946; No. 25, No. 52; Cabinet Orders No. 137, No. 161, No. 224, 1947; No. 35, No. 383, 1948; No. 165, 1949.

2. The Bicycle Race Law, Law No.209, 1 August 1948;
   Amended by Law No. 217, 1949;

   Enforcement Regulation of the Bicycle Race Law; Commerce and Industry Ministry Ordinance No. 28, 1948.

3. The Board of Education Law; Law No. 170, 15 July 1948;
   Amended by; Law No. 1, No. 77, 1949.

   Cabinet Order Concerning the Enforcement of the Board of Education Law; Cabinet Order No. 239, 1948;
   Amended by: Cabinet Orders No. 316, 1948; No. 6, 1949.

4. The Child Welfare Law; Law No. 164, 12 December 1947;
   Amended by: Law No. 211, 1949;

   Enforcement Ordinance of the Child Welfare Law; Cabinet Order No. 74, 1948;
   Amended by: Cabinet Order No. 205, 1949;

   Enforcement Regulation of the Child Welfare Law; Welfare Ministry Ordinance No. 11, 1948.
   Amended by: Ordinance No. 23, 1949.

5. The City Planning Law; Law No. 36, 5 April 1919;
   Amended by: Law No. 54, 14 June 1948;

   Imperial Ordinance Concerning the Enforcement of the City Planning Law; Imperial Ordinance No. 28, 1919;
   Amended by: Imperial Ordinances No. 482, 1920; No. 416, 1921; No. 395, 1929; No. 45, 1931; No. 84, 1933; No. 111, 1935; No. 936, 1940; No. 601, 1945; No. 112; Cabinet Orders No. 334, 1947; No. 166, No. 245, 1948.

6. The Daily Life Protection Law; Law No. 17, 9 September 1946;

   Imperial Ordinance Concerning the Enforcement of the Daily Life Protection Law; Imperial Ordinance No. 438, 1946.

7. The Disaster Relief Law; Law No. 118, 18 October 1947;

   The Enforcement Ordinance of the Disaster Relief Law; Cabinet Order No. 225, 1947;
   Amended by: Cabinet Order No. 290, 1947.

The purpose of a zoning ordinance is not to stifle growth, but only to insure that instead of taking place sporadically and wastefully it shall go on in an orderly way, in response to generally recognized needs and with due notice to all concerned.

A ZONING PROGRAM

Surveys

A zoning ordinance needs to be based on comprehensive and detailed study of the precise local conditions, both present and prospective.

Technical Advice

The zoning of a city requires expert professional knowledge. The professional zoning expert must call upon the citizens for much of the accurate information upon which any good zoning regulations must be based.

Scope Of A Zoning Ordinance

A zoning ordinance consists of one or more maps dividing the city into different kinds of districts, and a statement of methods of regulation to be employed in each district in regard to the use to which property may be put, the height and size of buildings, and the amount of space to be left vacant, with adequate provisions for enforcement.

Importance Of Correct Procedure

1. Proper definition of the purposes for which zoning may be undertaken.
2. Uniformity of regulations for each class or kind of buildings throughout each district.
3. The appointment and functioning of a zoning commission.
4. The careful preparation of regulations with reference to the character of the district and its peculiar suitability for particular uses.
5. The holding of public hearings.
6. The method of changing the ordinance.
7. Rules for establishing a board of adjustment.
8. Provisions for adequate remedies against violations of the ordinance.

Getting Public Support

It is essential to be sure that public opinion will support the zoning.

Zoning In Operation

A zoning ordinance is of value only as it is properly enforced. Its operation should be followed closely by those who most intimately understand the reasons for its provisions. Thus, improvements and adjustments may from time to time be made intelligently.

APPENDIX IV

ZONING

What Is Zoning?

Zoning is the application of common sense and fairness to the public regulations governing the use of private real estate.

It is a painstaking, honest effort to provide each district or nieghborhood, as nearly as practicable, with just such protection and just such liberty as are sensible in that particular district.

It avoids the error of trying to apply exactly the same building regulations to every part of a city or town regardless of whether it is a suburban residence section, or a factory district, or a business and financial center.

It fosters civic spirit by creating confidence in the justice and stability of the protection afforded.

Why Do We Need Zoning?

Zoning gives everyone who lives or does business in a community a chance for the reasonable enjoyment of his rights - at the same time it protects him from unreasonable injury by neighbors who would seek private gain at his expense.

Zoning protects property and health. A zoning law, if enacted in time, prevents an apartment house from becoming a giant airless hive, housing human beings like crowded bees. It provides that buildings may not be so high and so close that men and women must work in rooms never freshened by sunshine or lighted from the open sky.

Zoning reduces the cost of living. By zoning, millions of waste from the scrapping of buildings in "blighted districts" may be eliminated. (A "blighted district" is a district originally developed for residence, b siness or industry, in the future of which people have lost confidence.)

How To Get Zoning Started.

Enabling Act - Before any community undertakes zoning, it must make sure that it has the power to pass a zoning ordinance.

Zoning Commission - There must be some local official body to initiate the work of zoning. If there is a planning board or commission, that is the logical body to take up the problem. If there is no such body, one should be created, because zoning, to be done with wise foresight, must take account not only of existing conditions and obvious tendencies of growth but of probable changes and improvements of many sorts. It is part of the general planning problem.

range planning will provide for better living and a more efficient place in which to work and do business if the city and county of Honolulu is to continue to carry her load in the economy of this territory.

The City Planning Commission
Accomplishments summarized.

Proposed Redevelopment Program

Rent Control

Building Department

Department of Public Parks and Recreation

The Planning and Construction Division
The Zoo
The Maintenance Division
The Recreation Division
Acquisitions
Abandoned
Personnel

Royal Hawaiian Band

Cost - $146,625 for year for 525 performances - 48 members

Municipal Library

Police Department

Fire Department

CONCLUSION

Appendices

Officials of the City and County of Honolulu
Facts about Honolulu
In Memoriam

HEADQUARTERS EIGHTH ARMY
Military Government Section
Legal and Government Division
APO 343

BYLAWS OF LOCAL PUBLIC BODIES

-by-
Inomata, Koichi
Judge, the Tokyo High Court

I FOREWORD

Since the abolition of clans and the establishment of prefectures in 1871, local administration in Japan has been operated by the national government with the governor of the prefecture as the central figure. That is to say, operation by centralization and bureaucracy. The Meiji Constitution adopted the principle of centralization almost completely. In 1888 the Shi-see (City Regulations) and the Choson-sei (Town and Village Regulations) were enacted. In 1890 the Fuken-sei (Prefectural Regulations) and the Gun-sei (County Regulation) were enacted. These regulations were enacted to follow the example of the Prussian system, and had the appearance of local autonomy, even though it was an imperfect one. However, since the Manchurian conflict in 1931, as the central government of militarists and bureaucrats became stronger, the local autonomy system was neglected. Gradually and at last it was denied, almost amidst the desperate battles of the Pacific war. Namely, in 1943 by the amendment to the laws of the local government system, the national government took the power to appoint the mayor of cities, and the governors of prefectures (officials of the national government) were given powers to approve and disapprove the nomination of the headman of town or village. At the same time the power of the local assembly was reduced. With this latter step and that of the mayors and headmen of towns and villages being placed under the strong control of the national government the war-time regimentation of the structure of the nation was completed. This was the condition in the local governments which Japan faced at the end of the hostilities. With the beginning of the Occupation Japan was given the present of "liberty". On the 3rd of November, 1946 the New Constitution of Japan was promulgated and on the 3rd of May, 1947 it was enforced. The new Constitution in Chapter VIII provides for "local self-government", it guarantees decentralization, and commands the democratization of the local administrations. Article 92 of the Constitution provides "Regulations concerning organization and operations of local public entities shall be fixed by law in accordance with the principle of local autonomy". Article 94 provides for autonomous legislation, autonomous administration and autonomous finance.

In the nature of things a democratic national government stands on the foundation of democratic local public bodies. We must bring up democratic local public bodies, because we want to rebuild a democratic and peaceful state for Japan. This is the intention as stated in the new Constitution, which provides for the one chapter of local self-government.

But such a system of local autonomy as so recently provided for is the first experience for the people of Japan. We are not accustomed yet to operating and functioning under those laws. Therefore many problems and difficulties have occurred already concerning local autonomy. Among these issues the problems concerning bylaws draw our attention. The by-law concerning demonstrations and public meetings of Osaka City, the by-law concerning the disaster and peace of Fukui City, the bylaw concerning the temporary measures of the earthquake disaster of Fukui Prefecture and the bylaw concerning the regulation of prostitution have been discussed and criticized recently.

It is generally acknowledged that "to enact their own regulations" as stated in Article 94 of the Constitution means the enactment of bylaws and regulations as provided for in the Local Autonomy Law. According to this law, the bylaws are enacted by ordinary local public bodies, and the regulations are made by the chiefs of ordinary local public bodies. Today I will comment on the bylaws only, without referring to the regulations in the Local Autonomy Law.

II Historical sketch of the bylaws

The Shi-sei and Cho-son-sei, which were enacted in 1888, allowed the cities, towns and villages to enact bylaws on (1) the rights and duties of the inhabitants and (2) the affairs of the cities, towns and villages. But in the original Fu-ken-sei (Prefectural Regulations) of 1890 no such allowance was provided for and it was not until the amendment of the Fu-ken-sei of 1929 that the prefectures were allowed to enact bylaws. The reason for this attitude of national government toward the prefectures was that the prefectures were thought of as administrative districts of the state and the governors, who were appointed by the national government, were considered government officials even though at the same time they were "local officials" because they were the chiefs of the prefectures which were local public bodies. The scope of autonomy of the prefectures was comparatively narrower than those of the cities, towns and villages.

During this period of time the legal nature of the bylaws enacted was that of autonomous legislation on the affairs of the local public bodies and the rights and duties of the inhabitants. This legal nature of bylaws still remains unchanged. Thus under the new Constitution, the bylaws of the local public bodies are enacted by the representatives of the inhabitants in the local assembly, just like the laws of the national government are enacted by the representatives of the people in the Diet. Furthermore, the Law concerning Local Autonomy (enacted in April 1947, amended in December 1947 and July 1948) enlarged the scope of affairs which can be stipulated in the bylaws. The Law allowed the ordinary local public bodies to stipulate in the bylaws the imposition of a penalty for their violation. Therefore the bylaws of the local public bodies have undergone splendid changes in their functions and their importance by means of this Law.

III Procedures for enactment of the bylaw

An ordinary local public body - namely the metropolis, district or urban or rural prefecture, the city, the town and the village - may enact any bylaw, unless the bylaw contravenes any laws or ordinances, because the national laws and cabinet orders are superior to all bylaws. The Constitution is the supreme law of the nation. The laws enacted by the Diet of course are ranked in second position to the Constitution. All cabinet orders, and ministerial ordinances are enacted in order to execute the provisions of the law. The local assembly of the ordinary local public bodies enacts, amends and abolishes a bylaw by majority vote; if the chief of an ordinary local public body causes the assembly to reconsider the bylaw a two-thirds vote of the assemblymen present is needed to pass the bylaw. Thus the bylaw is enacted usually only by the decision and authority of the local assembly alone with the exception of one providing for the alternation of the name of a city, town and village. For this exception the permission of the governor of the prefecture concerned (Article 3, Paragraph 3) must be obtained prior to its enactment.

As a rule, the right of introducing a bill to be enacted into a bylaw belongs to the chief of a local public body and an assemblyman. But as an exception, the right of a motion for the establishment of a committee belongs to an assemblyman only. (Article 109-111). Moreover, persons who have the right of voting have the right to demand the enactment, revision or repeal of a bylaw under a certain condition. (Article 74) The bylaws are publicly announced in conformity to a stated form of public notice. (article 16) The bylaw becomes valid by this announcement. The effective date of the bylaw is decided by the bylaw itself or in the provision of the stated form of public notice. (The form of public notice must be enacted in the form of a bylaw because the form of public notice has the effect and nature of a bylaw of a local public body.)

IV Affairs to be stipulated in the Bylaws

Article 14, Paragraph 1 of the local autonomy law provides, "An ordinary local public body may enact any bylaw in affairs mentioned in Paragraph 2 of Article 2." Affairs thus mentioned in Paragraph 2 of Article 2 are divided into three categories:

(a) Public affairs or inherent affairs

Public affairs as a term defined means the affairs concerning the promotion of public welfare of the inhabitants of a local public body. On the other hand there are affairs of the organization of a local public body. These are the affairs such as (1) to organize a local public body, to appoint or elect its organs in the scope of the basic laws, (2) to enact autonomous legislation and (3) to deal with matters of local finance. On the other hand there are affairs of the management of the services and institutions of the public bodies in order to promote the common welfare of the inhabitants.

(B) Mandatory affairs, individually mandatory affairs

These are affairs of the nation and other public bodies with which a local public body is charged by specific national laws or ordinances. These are called mandatory affairs of the local public body. Among them are such matters as the establishment of public schools and the charge for the expenses of roads and rivers. Differing from these, are the individually mandatory affairs to the chief of a local public body as stipulated in the provisions of Article 15. Thus census registration and alien registration are charged to the chief of a local public body himself.

(C) administrative affairs or (inclusive mandatory affairs)

These affairs are "other administrative affairs of the same district which do not belong to national affairs", which are provided for in Paragraph 3 of Article 2 of the Concerning Local Autonomy Law. They are the matters other than administrative affairs which are handled by the national administrative agency in the same district of the local public body in accordance with the national laws. These affairs are actually national affairs, but are charged to the local public body, and handled in the same district as long as there is no national organ to handle them or the national government does not think necessary to handle them itself. This is added to Article 2 by the amendment of December 1947, and is called inclusive mandatory affairs. (Examples of these)

A problem occurs frequently concerning administrative affairs (C) in which a national law is enacted in a certain field of administrative affairs. The question may arise, can any bylaw be enacted in the same field? Of course no bylaw can be enacted contrary to the national law. However, a bylaw can be enacted as a supplementary means to cover special items of the affairs, which the national law does not cover. For instance, while a national law stipulates the breadth of roads, a bylaw can be enacted concerning the pavement of roads. Furthermore in the field of local finance, a local public body can enact the additional tax to the national tax of a certain matter, unless the national law provides for the clear prohibition of any additional local tax. From this point of view a local public body has a wide field in which proper bylaws can be passed. Therefore a local public body must do everything in its power to promote the public welfare of the inhabitants.

The amendment of July 1948 must be taken into consideration in connection with the mentioned affairs in A B and C. This amendment enumerated those affairs in detail. In addition it clarified the national affairs with which an ordinary local public body can not deal. This is a guide to the operation of local autonomy and is intended to draw the attention of the inhabitants concerning local administration. Finally Paragraph 3 of Article 14 must be considered also. It says, "The prefectural government

may stipulate the disposition of the administrative affairs of the city, town and village by its bylaw unless otherwise provided for by law or ordinance."

V Validity of the Bylaw

A local public body is a juristic person. The elements of this juristic person are (1) a certain district and (2) its inhabitants. It rules the inhabitants and visitors in the district within the scope of its competence which is authorized by the state. From this point of view a local public body is a nation on small scale. The bylaws are the laws of this small-sized nation, which are enacted through legislative power vested in it by the state. The validity of the bylaws extends to every nook and corner of the district concerned and to every person - all of the inhabitants and visitors. Two limits establish the validity of the bylaws. These are:

(A) The bylaw is valid, provided that it is not contrary to the laws and ordinances of the nation. Article 94 of the Constitution states, "Local public entities shall have the right - - to enact their own regulations within law." The word law should be interpreted as the law of the national government enacted in terms of the Constitution. The requirement is, therefore, a law passed by the Diet under authority derived from the Constitution. A cabinet order issued in terms of a law has the effect of law. Each law nearly always has a cabinet order. The Chihojichiho is precisely such a law satisfying this requirement. Article 14, Paragraph 1 clarifies this interpretation by providing "- - - enact any bylaw - - - unless the bylaw contravenes any laws or ordinances". The bylaw is null and void as far as it is contrary to the national laws or ordinances.

(B) If the city, town and village bylaw regarding the disposition of the administrative affairs is contrary to that of the prefecture, the former is null and void. (Paragraph 4 of Article 14) Within these limits the bylaws are completely valid as autonomous legislation. However, concerning this one thing must be emphasized. As I told you previously, the local autonomy law provides a wide field in which proper bylaws can be passed. You must be aware that there are vast fields which are supplementary to the national laws, not contrary to them. Therefore, no hesitation should be shown in this field to pass bylaws.

VI Penalty

No bylaw can be enforced properly, unless some penalty is imposed for the violation of its provisions. Under the Fuken-sei, the penalty for the violation of the order of the prefectural governor was a fine not exceeding 50 yen. The amendment of December 1947 allows a local public body to stipulate in its bylaw the imposition of imprisonment with or without hard labor not exceeding two years, or a fine not exceeding

100,000 yen, the detention, charge or confiscation for the violation of its bylaw unless otherwise provided for by law or ordinance. The national court system is invested with the jurisdiction of crimes committed in terms of Paragraph 5, 6 of Article 14. These penalty provisions are guarantees of the enforcement of the bylaw. The weight of the bylaw of a local public body has been remarkably increased by this penalty. The imposition of these penalties in the bylaw caused discussion in the Diet on the occasion of the deliberation of this amendment - whether this provision is contrary to the Constitution by infringing upon the constitutional right of liberty of the people. Several answers were given. No one said that the provision is contrary to the Constitution, but the reasons in their arguments were different. Upon the explanations of this problem, I would like to point out two thoughts. The first one is that the bylaw is enacted by the resolution of the local assembly, which is the representative organ of the inhabitants of the local public body. The second one is that the bylaw is enforced within the district of a local public body, which enacted the bylaw. By analogy one can say that this local public body is a democracy existing within the state as a small-size nation. Chapter 8 of the Constitution recognizes a local public body as a unit of democracy by giving it the power of autonomy similar to that held by the nation itself. Therefore the imposition of the penalty by the bylaw conforms with the principle of democracy, which is the spirit of the Constitution.

VII Three things which must be done

(A) When the procurator thinks the bylaw is contrary to the national laws or ordinances, shall he indict the person who violates the bylaw?

Only the national court has the power to determine the validity of the bylaw. Therefore the procurator must indict the above-mentioned person to get the case into the court and to have the decision of the court.

(B) What shall the inhabitant do, who thinks the bylaw is not satisfactory or fair? The answer is found in Article 74. The persons who have the right of voting can demand that the chief of a local public body take action for the revision or repeal of the bylaw by means of a petition which has the joint and valid signature of one-fiftieth of all persons who have the right to vote in the area.

(C) How shall the bylaws be publicized to the inhabitants or visitors in the area, especially, the bylaws carrying a penalty? Such knowledge should be broadcast by means of: (1) using the assembly's library, (2) observing announcements on the official bulletin boards, (3) the press (4) the radio, (5) discussions in a "town meeting", (6) discussions in public or private meetings of private groups or organizations and (7) the official magazines of the Mayors' Congress or the National Association of Towns and Villages.

VIII Conclusion: Importance of the Bylaws of a Local Public Body

Democracy is maintained by making laws on the part of the representatives of the people, and observing laws on the part of the people. The law-abiding people of a democracy are similar to the hands of "Atlas" as he holds the world. Democratic local public bodies are the foundation of a democratic nation. If we do not bring up healthy, democratic local public bodies, it is impossible to build a democratic nation. Autocratic centralization is a road to despotism. In fact the bylaw is the legislation of a local public body. I think it is an important means of bringing up a healthy democratic local public body to enact sound and practical bylaws. We must consider daily the importance of the enactment bylaws of a local public body.