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SECTION VIII.

LOCAL GOVERNMENT

I. INTRODUCTION

Representative government reaches its fullest expression when the citizens of a local community, through officials elected by and responsible to them, determine the policies and manage the affairs of that community. Under such conditions, authoritarian encroachments on the lives and rights of the people are difficult to impose or perpetuate, and government retains its proper character as an instrument and servant of the people. Further, when local public bodies are representative, vigorous and responsible, a strong and healthy representative system of government for the nation as a whole is easiest to maintain.

The system of local government in operation in Japan at the beginning of the Occupation was the antithesis of local self-government. Its character was rigidly authoritarian and local governments were but arms of the central government. Individual angularities in local administration in response to local conditions, needs and desires were not contemplated nor tolerated; all important problems were settled in Tokyo or by officials whose authority derived from and whose responsibility was to Tokyo. The individual citizen had no active participation in this government; to him it was an organization controlled by remote sources of authority, yet he felt its pressures on his life at every turn.

The reform of this system was an essential ingredient of the blueprint for democracy which the Occupation gave to the people of Japan. There was no intent--nor could the effort, if made, have been successful--to transplant to Japan the theory of States' Rights as practiced by the federal union of sovereign states which formed the United States of America. The basic aim was closer to local "Home Rule" as accorded to the municipalities by the constitutions and statutes of a number of states in the United States.

The legal groundwork for this reform was laid in Chapter 8 of the new Constitution of Japan which establishes the principle of local autonomy and provides: (1) that local public entities shall establish assemblies as their deliberative organs, (2) that their chief executives, assembly members and other local officials shall be locally elected by direct popular vote, and (3) that they shall have the right to manage their local property, affairs and administration.[1]

It is obvious that the constitution could provide only a broad statement of basic principles. To make these principles come to life required a thorough over-hauling of the legislation governing the status, organization, powers and responsibilities of local public entities; revision of the laws for the election and installation of a new set of officials under the new system; interim arrangements during the transition period; education of both local officials and the public in the significance of the reform, and advice and encouragement in the exercise of their new powers, rights and responsibilities.

The Law Concerning Local Autonomy (Chihōjuchihō) was evolved after exhaustive field studies, conferences and discussions to which not only the Local Government Division but the other divisions of Government Section, other staff sections of General Headquarters, Japanese officials in the national, prefectural, city, town and village governments, leading citizens and others made contributions.[2] As finally enacted by the Diet, it provides the basis for a democratic system of self-governing local public entities fully empowered to manage all affairs of a purely local nature and to discharge their local responsibilities in matters of national concern. The people are given an opportunity to participate in local political and governmental affairs; local answers can be developed to local problems; local

1/ Appendix C: 21, The Constitution of Japan.
2/ Appendix H: 14, Local Autonomy Law, Law No. 67, April 17, 1947

officials and representative bodies are given opportunities to participate in the shaping of national policies. The local arena thus becomes a training ground for leadership in national affairs.

II. THE STRUCTURE AND ORGANIZATION OF LOCAL GOVERNMENT.

1. The Organization. The type of local government which was in existence at the beginning of the Occupation was exercised through six echelons of authority and administration. These echelons controlled the rights and lives of the subjects of Japan, imposing upon them countless burdens and duties, many of them unreasonable, irksome and of servile character. Because of the implantation by the Meiji statesmen of the Continental System of government and the steadfast maintenance of it by their followers for over the past half century, the entire six echelons have existed as units of administration for the convenience of the Central Government. As functionaries of the State, its officials have been in no position to listen to the daily needs and wants of the populace, much less to serve as their representatives.

The hollowness of the "local autonomy" which this system was supposed to grant was intentional; it did not just develop since its creation seventy years before. The Continental System as established in Japan was more Germanic in character than French, despite the wide adoption of many statutes and practices from the latter country. Moreover, the counseling of the most important character was given by German scholars and statesmen, not only when the Japanese studied on the Continent, but also when they invited foreign representatives to come to Japan. Because of this background and the deep-rooted authoritarian controls of the Japanese imperialistic system, the orbit of the Japanese subject's life and movement, politically and socially, was constantly subject to scrutiny and stringent regulation.

Three of the echelons derived their structure, power and responsibilities from five basic laws, their enforcement regulations, and Imperial

Ordinances. The first of these echelons composed the Metropolis of Tokyo-To, the District of Hokkaido, the two urban, and the forty-two rural prefectures. Three separate laws, as discussed below, put these forty-six governmental authorities upon approximately the same basis. The second echelon was composed of the cities, and the third echelon was made up of the towns and villages. These three levels of government are the major ones. Each unit within the three levels is a juridical person, which clothes it with such powers that the people within its area can be controlled by it and at the same time its own corpus is controllable by the State.

The remaining three echelons in local government derived their power by delegations of authority from the laws referred to below and their structure from regulations issued by the Minister of Home Affairs. None of the bodies so created was a juridical body, therefore, and their character changed with additional delegations or withdrawals of authority. These three levels were sandwiched in between the people and city or town and village governments. This system was formed by a vertical integration of (1) the Neighborhood Associations or Tonari Gumi, which were compulsory units of some eight to fifteen families and made the first rung of the hierarchy; (2) the block associations or Chonaikai and buraku kai, which were again compulsory units of ten Tonari Gumi and formed the second rung, and (3) the federations of the Chonaikai or Rengokai, which were units of one hundred Chonaikai and made up the third and last rung. The federations were generally formed in the larger municipalities and were not found in the towns and villages. This system was well integrated. The lines of authority and control led straight to the central government -- mostly in the Ministry of Home Affairs. The suitability and efficiency

of this system for propagandizing, exhorting, ordering and otherwise regimenting the entire population were astonishing. Thus, when the central government desired the people to support the war effort "more earnestly," the governors ordered the mayors and they, in turn, ordered the heads of the three sets of organizations to control the families.

The nature of the local governmental system can best be understood by an examination of its relation to the people and of the elements which compose it. There follows therefore, a brief description of: (1) the rights and duties of the people, (2) the powers and responsibilities of the chief executives, (3) the position of the assemblies, (4) the divisions of administration and their authority, (5) the supervision of local public bodies, and (6) the condition of financing.

The privileges of the people as individuals in Japan, as provided in the five organic laws, were in terms of the grants in the Meiji Constitution which above all else stressed the duties of the subjects: (1) manhood suffrage with certain qualifications was enjoyed; (2) certain voters with further qualifications could stand for indirect election of Chief Executive of the village, town and city as well as for direct election of legislater for the assemblies of all entities; (3) the Japanese right of petition was given, and (4) the right to use the "property and establishments in common with others and the duty to share in their burden."

Because of the relative impotence of the local positions to which candidates could stand for election, these privileges were weak reflections of the individual's rights as known in the Western democracies. Moreover, because of further controls found in other laws, ordinances and regulations, the individual's sphere of political activity was pitifully small.

The chief executives of the three top echelons of local government were alike in name only. To some degree under the laws their powers and responsibilities were somewhat similar for their respective jurisdictions. Because of the Imperial Ordinances and some agreements, there were sharp and severe gradations which with Japanese finality placed each of them in the political and governmental "positions in which they belonged."

2. The Executive. The governor, as bureaucrat and appointed official of the Central Government, the Ministry of Home Affairs, was truly the most important administrator in the prefecture. The record over a half century confirms the fact that few were the occasions when his power was questioned or his will resisted by any element in the local public body.

With the enactment of the Law Concerning the Organization of Urban and Rural Prefectures on May 17, 1890, the governor was clothed with a dual character. Until that date, the governor had been a national official only.

The national element of the governor's character, even though formed before, had been given more specific detail and definition in the Regulations Concerning the Authority of Local Government Officials of July 20, 1886. This important Imperial Ordinance established in each prefecture the authority of the governor as the highest authority exercising national governmental powers in the prefectures. Of some five or six other high ranking governmental officials also in the prefecture, from the Ministries of Finance, Agriculture and Forestry, Railways, Transportation, and Communication, the governor was the only one who could (1) issue prefectural ordinances, (2) demand the dispatch of troops to quell disorder should the need arise, (3) supervise the heads of cities, towns and villages, and (4) control almost completely the personnel of the prefectural government through the minor or hannin rank officials whom he could select, promote,

transfer or dismiss, and the sōnin rank officials, whose appointment was approved by the Emperor, but with whom he could do the same with the consent of the Home Minister. It was in this Regulation that the governor was made a direct appointee and in some degree a henchman of the Home Minister who virtually controlled the governor's entire career as a governmental official.

Supplementing this ordinance was another concerning court ranks, the Joijorei of May 6, 1887, which became the I Kai Rei, or Law Concerning Court Rank, on October 21, 1926. The governor was of Chokunin rank, (appointed by the Emperor) which gave him a position of great political and social prestige. Moreover, by another ordinance concerning the pay of the grade of higher class officials, the governor's annual salary ranged from ¥4,650 to ¥5,350, or above that of a bureau chief and just below that of a vice-minister in the national government. Other laws and Imperial Ordinances gave the governor particular powers and functions in specific field to act for the various competent ministers.

3. Relationship of the Executive to the Legislative Bodies. The second element of the governor's dual character consisted of his authority in the local government system by the prefectural ordinances. Within the prefectural government itself, he was an official to be pleased and feared: (1) he alone could call the prefectural assembly into regular and special sessions and to all practical purposes determine their duration; (2) he could override the assembly's action and, if the occasion were made difficult by the assembly's "stubbornness", he appealed to the Home Minister, and (3) he presided over the prefectural council which was elected by and out of the assembly to meet during the nine, ten or eleven months of the year in which the parent body was not in session.

Further powers in the local government system were evidenced by the degree of supervision which the governor could exercise over the cities at one level and the towns and villages at another. At the time when the indirect elections took place for the village head, the town head, and the city mayor, the candidates' names went to the governor's office for approval; hence, the elective process was not conclusive because of this compulsory element of approval by the executive. The governor could almost, at his own discretion, remove a village or town head from office as well as dissolve a village assembly or town assembly. Upon his recommendation the Home Minister removed the mayor or dissolved a city assembly.

These powers are all political controls. They should be viewed in conjunction with the financial ones, especially on the submission and final approval of the prefectural budget by the assembly. It was the governor's prerogative to formulate the budget and with very narrow limits hold the assembly to pass it. In the expenditure of national funds he did not have to make an accounting or even report the sums to the assembly. Moreover, by an indirect "permission-seeking" system to which the mayors and headmen had to conform, the governor had quasi-control over the budgets of the village, town and city. Through this control over local finances, the governor was the most powerful official in the prefecture.

The chief executives of cities and of towns and villages were elected to their offices indirectly for a renewable term of four years each. Their powers and functions were set forth in specific legislation, but, as has been shown in the discussion of the governor's position in the prefecture, these mayors and headmen, except perhaps in the twenty largest cities in Japan, played no real part as local officials in creating, developing or maintaining local governments. The authority exercised by the mayors of

cities was greater than that exercised by the headmen of the towns and villages. The mayor of the city, as provided in Article 87 of the Law Concerning the Organization of Cities, was given supervisory powers over the local public body and the authority to represent it officially. In general, he had the power (a) to present all the important bills to the assembly or to the city council and to see that they were carried into effect, (b) to manage property and the establishments of the local public body, (c) to take custody of the official documents and papers, (d) to supervise the city accounts and be responsible for the receipts and disbursements, which included the collection of rents, fees, allotted charges and statutory equivalents for labor, and (e) to control personnel within his area. he mayor's relations with the assembly and with the city council resemble those of the governor with his corresponding advisory bodies. If he considered any resolution or action of the assembly to be contrary to the public interest, he could, with or without consulting the assembly, take the matter to the governor and ask for his review with the idea of annulling such resolution or act. In general, his relation with the assembly, as established by law, was most favorable to him. In matters of the budget he had the power to consider any alterations of his bill, which he had the sole power to present, as a vote of non-confidence and put on the members of the assembly the burden and cost of running for re-election. He, being appointed, ran no such risk. He had the power to convoke the assembly, and he, not the chairman of the assembly, was the head of the city council. He was given the general power, as provided in Article 91, of disposing in his discretion of any matters which the assembly or the council did not complete. This general power included those situations in which it was supposedly inconvenient to convene the assembly or hold a meeting of the

council. In general, with regard to the management of the city's affairs, the mayor was under the direct supervision of the governor and, indirectly, under the supervision of the Minister of Home Affairs.

For certain purposes, the mayor acted independently of the jurisdiction of the assembly. Certain laws specified that the mayor would have jurisdiction in his own office over matters of health, roads, education, school construction, care and engineering control of small rivers, and hospitals for the insane.

The headmen of towns and villages within their spheres of jurisdiction performed in a similar capacity to that of the mayor. As an official in local government, however, his work was restricted and, in general, it can be said that the real substance of all laws relating to government had been planned and directed for execution some time before the affairs reached his office.

The mayor, being elected indirectly by a vote of the assembly, was the final selection from a list of three candidates sent by the assembly, through the governor, with his recommendation, to the Minister of Home Affairs. The headman of a town or village was elected indirectly by the town or village assembly. His name only was sent to the governor, who, under his own authority, either approved or disapproved.

The mayors and headmen were salaried persons, although the law provided that they could, if they desired, treat the office as an honorary post. Outside of the larger cities, the salaries of all these officials were in no way commensurate with Western standards, nor, when compared with the great bureaucracy throughout Japan, did these local officials, in performing their functions and rendering service, receive equivalent compensation.

The assemblies of the prefectures, cities, towns and villages in Japan have never been legislative bodies as in the Western democracies. All of the assemblies had general characteristics. The assemblymen were elected from their districts for a renewable term of four years. They received meager expense allowances, but no salaries. The laws provided that they would be called into either regular or special sessions by the chief executive only. They did not even possess the power to hire and supervise their own personnel. When once elected, the members had little authority under which they could exercise their own initiative for the fulfillment of either local needs or desires. The prefectural assemblies had a minimum of forty members; the city assemblies had a minimum of thirty, and those of the towns and villages had ten. Membership beyond those minima was restricted to a populational scale. Meeting in regular session but once a year for a period of thirty days, they did little else but feign debate upon the annual bill which became the budget.

The administration, both as to structure and organization and as to character and number of personnel, varied sharply between the prefectural governments on the one hand and the city, town and village governments on the other. In the prefecture, the department heads established with the consent of the governor the various sections and, within these, depending upon the nature and volume of the business, the various units. The entire personnel of the prefectures came under the governor's supervision. Most of the personnel were governmental officials of hannin rank, a fewer number of sōnin rank and perhaps not more than four of chōkunin rank, of whom the governor was always the highest in grade. Because most of the personnel were governmental officials, their authority and prestige in the prefectures were distinctly above those of any other officials. It is axiomatic that these bureaucrats made much of the situation and did not hesitate to

trade on it.

With the exception of the larger cities and, in particular the six very large ones, the administration of the city, towns or village was at a marked disadvantage. The administration was carried on through a series of sections, which were broken down into units. The personnel who performed the functions of these sections and units had meager education, were never paid well, and were coaxed throughout their lives to consider their rendering of continuously long hours as a personal duty to the program. Indeed, the onus of government fell upon this unhappy lot. Without question, over the half century of time in which these local entities functioned, the national government saved billions of yen by cudgeling this enormous group of people into performing services virtually for nothing. Moreover, in comparison with the government personnel in the prefectures, the city, town and village officials commanded little respect; the prefectural officials looked down upon them. Unfortunate, too, for good government in the cities, towns and villages, the positions of mayor, the headmen and sometimes chairman of the assembly became graveyards for retired government officials. Field surveys performed by the Local Government Division in the cities, towns and villages showed only too frequently that the governmental officials or bureaucrats in Japan not only took the positions which they desired, but also performed in them as they pleased, and, in so doing, left the burdens and difficulties of governmental affairs to these hundreds of thousands of underpaid local officials to perform as best they could.

The financial resources of the villages, towns, cities and prefectures have always been meager. Because the central government has maintained a close supervision over all finances, these local public bodies have had

no real control either in taxation or in budgetary affairs. No material independence has ever existed for the floating of local public loans. The Ministry of Home Affairs and the Ministry of Finance have had dual authority over all local governments, although the major responsibility rested with the former. With the dissolution of the Home Ministry, major responsibility for financial arrangements for local public entities was assumed by the Ministry of Finance. Local budgets have been maintained by routine forms prescribed in the enforcement ordinances for the basic local government laws. In general, they have been an executive function. The powers of the auditors and inspectors have been subordinated to the executive.

III. ANALYSIS OF THE ORGANIC LEGISLATION.

The fundamental laws creating the local governments and the most important Imperial Ordinances relating to them covered a wide range of powers and responsibilities, yet they centered nearly all the authority in either the central government or its agents. In order to show the contents of the laws on local government and point up the general nature of the work performed by the Local Government Division in its reorganization of them with the Japanese, each law is listed with a statement of explanation.

1. The Law Concerning the Organization of Urban and Rural Prefectures was composed of 147 Articles and 4 additional provisions relating to particular amendments. The chapter and section titles are given below to illustrate the character of the law as well as to serve as a measure of the other four laws.

Chapter I. General Provisions

Chapter II. Prefectural Assemblies

- Section 1 Constitution and Election
- Section 2 Powers and Duties and Regulations for Administrative Affairs

Chapter III. The Councils of Urban and Rural Prefectures

- Section 1 Constitution and Election
- Section 2 Powers and Duties

Chapter IV. Administration

- Section 1 Organization, Appointment and Removal of Officers
- Section 2 Powers and Duties
- Section 3 Salaries and Allowances

Chapter V. Finances

- Section 1 Property, Establishments and Prefecture Rates
- Section 2 Estimates of Revenue and Expenditures

Chapter V-2 Associations of Prefecture

Chapter VI. Supervision of Administration

Chapter VII. Additional Provisions

The Law was created originally as Law No. 35 of May 17, 1890, and has undergone several amendments, the last of which were those made mandatory by the Tojo Cabinet in 1943. This law constituted the position of the prefectural governments at the beginning of the Occupation.

2. The Law Concerning the Organization of Cities was composed of ten Chapters, 181 Articles and 6 additional provisions relating to particular amendments. The Law had its origin as Law No. 1 of April 25, 1888, which at that time applied not only to cities but also to towns and villages. After the Diet was created, it became a separate law for city government. The general treatment of the substance of the Law follows that of the prefectural law except for necessary differences which concern the jurisdiction of cities. The general provisions recite the nature of cities and their political area, the rights and duties of the inhabitants of cities, and the manner in which the by-laws and regulations of a city can be formulated. The war amendments to the Law placed the mayor in the same position in relation to the rest of the city government as was the governor to the prefectural assembly. What autonomy existed in a practical sense, therefore, was taken away. The city administration was simply made an appendage to the national system.

3. The Law Concerning the Organization of Towns and Villages was composed of 9 Chapters, 161 Articles and additional provisions which were similar to those of the other laws. This law was enacted on April 4, 1911. Under its provisions, towns and villages, as local public bodies, had less position and authority than did the cities. Moreover, unlike prefectures and cities, towns and villages had no council organization. The size of town and village assemblies also was materially smaller than those of the cities and prefectures. Here again, as with the other two general laws,

the war amendments gave the Home Minister and the prefectural governor even more direct control over the headmen of the towns and villages.

4. The Law Concerning the Tokyo Metropolis (To), enacted on June 19, 1943, was a special law which brought to a close a long series of attempts to secure metropolitan status. The metropolitan area of Tokyo no longer would have a mayor; the governor of Tōkyō-To was put in the same relation to the thirty-five autonomous wards of Tokyo as he was with the mayors of other cities, towns and villages within the boundaries. The ward heads were appointed by the Home Minister, which had not been the case when the mayor presided over the wards. The divisions of administration had been called bureaus because of their size and importance when Tōkyō had the status of a Fu (urban prefecture); in the change, no material reorganisation was effected. The Law contained over 170 Articles, with supplementary and additional provisions. In the codification of the Law Concerning Local Autonomy, the special character of Tokyo-To has been altered little.

5. The Law Concerning the Hokkaidō Assembly was passed March 28, 1901, as law No. 2. Together with the Imperial Ordinances and the Hokkaidō Expense Law, it provided a fundamentally different organization from all other prefectures. The Governor-General of Hokkaidō had more authority and responsibility than any other governor in Japan. With its 14 districts, the Hokkaidō government operated in its area in as singular a manner as did Tokyo-To. Even though many provisions of the Law Concerning the Organization of Urban and Rural Prefectures were applied to Hokkaidō, it remained different from the others up to the eve of the Occupation. With the passage of the Law Concerning Local Autonomy, the essential differences were eliminated, so that today, even though Hokkaido contains a vastly greater square mileage than other prefectures, its government has much the same powers and

responsibilities as the others.

6. The Enforcement Ordinances. The Imperial Ordinances which implemented these laws, contained the kind of substance which should have been law. Most of the desirable elements were either incorporated into the Law Concerning Local Autonomy or used in its implementing Cabinet Order or ministerial regulations. The enforcement ordinance concerning the Organization of Cities or the Law Concerning the Organization of Towns and Villages was one of 9 Chapters, 71 Articles and several additional provisions.

The Imperial Ordinance entitled Regulations Concerning the Authority of Local Government Officials (Chihokankansei) determined the number, grade and character of the officials in the prefectures. It also established the organization of the prefectures, which included the governor's secretariat, the Internal Affairs Department, the Police Department and the Economics Department. Depending upon the size of the prefecture's business, there could also be an Engineering Department and an Economics Department No. 2. The responsibility of each department was well defined. Further divisions of the department were made into sections and these into units. The control of the Home Minister on all issues of any importance was reflected in the fifty or more articles of this long-standing Ordinance.

In the process of drafting the Law Concerning Local Autonomy, the Local Government Division used a number of provisions of this Ordinance; in the main, matters concerning the control of the central government and police affairs were discarded because of the policy of decentralization.

IV. THE CENTRAL GOVERNMENT

1. The Ministry of Home Affairs. The central government of Japan has for over a century been highly oligarchical and authoritarian. The administration of the affairs of government has been in the hands of a bureaucracy within the great organs of state, the Ministries. At the beginning of the Occupation, each of the central ministries had its jurisdiction over the prefectural governors for the accomplishment of affairs falling under the competence of that Ministry. The Law Concerning Government Organization established the relationship of the Ministers to the governors. Article 5 of the General Provisions of this law prescribes:

> "The Minister of each Ministry possesses the right to give directives or instructions to the Governor of Tokyo-To, the Superintendent-General of the Metropolitan Police Board, the Governor of the Hokkaido District, and all the prefectural governors concerning the affairs for which he is responsible."

Article 6 of the same law provides that:

> "The Minister of each Ministry supervises the Governor of Tokyo-To, the Superintendent-General of the Metropolitan Police Board, the Governor of the Hokkaido District, and all the prefectural governors, concerning responsible matters. In case he finds that the order and treatment given by the Governor of Tokyo-To, the Superintendent-General of the Metropolitan Police Board, the Governor of the Hokkaido District, or the prefectural governor, injure the public benefit, or infringe upon his competence and are contrary to provided regulations, he may suspend or cancel the order and action."

Within each of the national Ministries a bureau has existed for supervising the execution of the Ministry's functions in the prefectures. Although all the Ministries have at times exercised most important powers over the prefectural authorities, the two most influential were the Ministry of Home Affairs and the Ministry of Finance, and of these two, the former has been the dominant one. The Home Ministry did not just grow into this position either automatically or gradually. It was created with the responsi-

bility of controlling domestic relations and, in general, all conditions within the interior. Because of its control of (1) the Shrine Bureau which zestfully fostered State Shinto, (2) the Bureau of Local Affairs which had charge of the administration of elections and all the local governments, (3) the Police Bureau which headed the centrally controlled police system, (4) the Bureau of Public Works which had charge of internal construction coupled with subsidy payments therefor, and (5) the Planning Bureau, whose function was essentially to make policy for all types of construction, the Ministry of Home Affairs reached into the most intimate elements of the family life of every subject in Japan.

The Bureau of Local Affairs, which supervised the six echelons of the government previously discussed, was the agency of the Home Ministry with which the Local Government Division has had most of its relations in the conduct or its task.

2. <u>The Ministry of Finance</u>. The Ministry of Finance, in general, worked in close relation with the Ministry of Home Affairs. At times, because of personality clashes and jealousies over administrative power, friction detrimental to the local governments resulted. The Ministry of Finance has been directly concerned with the matter of local taxation, in the problem of local budget making, and in the matter of floating of local loans. In matters related to the execution of the tax law, implemented at times by Imperial Ordinances and Ministerial Regulations, mutual consent of both ministers was required. With regard to budget making and floating loans, the orders, directives and regulations which have gone down to the prefectural governors, have usually been of such nature that agreements between the vice-ministers were all that was needed.

3. <u>Other Ministries</u>. The relations of other national government

agencies with the governors are summarized below:

1. Within the Cabinet the Bureau of Pensions and the Bureau of Statistics had authority to make specific requests from the prefectural governors. While they were not legally required to go through the Ministry of Home Affairs, they did so in general practice.

2. The Ministry of Education in supervising the national school system dealt directly with its respective units in the prefectures and only indirectly were the governors or the Ministry of Home Affairs involved.

3. The Ministry of Agriculture and Forestry, because of its functions in the administration of agricultural matters in the villages, towns and cities, had many working agreements with the Ministry of Home Affairs. These matters concerned not only crops, livestock and fisheries, but also the enforcement of provisions of many laws dealing with agricultural organizations, both private and quasi-governmental.

4. The Ministry of Commerce and Industry carried out a few functions in the prefectures through the Commerce and Industry Section of the Economics Department of the prefectural government. Because of the great variation of controls desired both before and during the war, the Minister of Commerce and Industry exercised his competence almost completely independent of the Minister of Home Affairs.

5. The Ministry of Welfare, formerly a bureau of the Home Ministry, became an independent Ministry during the war. However, a close relationship existed between the two, even to the interchange of personnel. In fact, joint services were performed in the prefectural governments by these two Ministries.

6. The Ministry of Railways and the Board of Communications had no real connection with the Ministry of Home Affairs or the prefectural

authorities, because of their essentially national character.

In addition to the specific law given above, a host of other laws and Imperial Ordinances clothed the Ministers at particular times with authority to direct the governors to take action in one form or another. From the type of delegations of authority sent down, however, it is evident that the real controls never left Tokyo. The governor, even though a nationally appointed official, rarely was given outright powers of his own in the laws. Whatever actual local autonomy eked out was permitted by some benevolent official acting individually rather than in pursuance of Central Government policy.

V. DRAFTING THE LAW CONCERNING LOCAL AUTONOMY.

The procedure planned and followed in order to develop sound and lasting changes for local government involved three separate steps, each of which contained many parts. These steps may be summarized as follows: (1) formulation of a definite policy concerning local autonomy; (2) discussion of problems of local government and reforms through conferences with various official and interested groups; and (3) surveys conducted in the field for the purpose of testing local reactions concerning the new program.

The first of these had to do with the coordination with other divisions of Government Section and with other staff Sections of General Headquarters, SCAP. In general, the definite suggestions proposed and the many changes advocated by the Local Government Division during the year 1946 and the first half of 1947 met with friendly support. During the latter half of 1947 some differences of opinion arose as to the establishment and maintenance of national branch offices beside the offices of the prefectural governments. These differences arose from the desire of some divisions in other Sections of GHQ to have highly concentrated controls emanating from Tokyo, believing that this was necessary because of the critical condition of the Japanese economy. The main program, however, of the Local Government Division, as embodied in Article 156 of the Law Concerning Local Autonomy, has been a preventive measure against a further unwarranted intrenchment of the central government's bureaucracy in the prefectures. The main direction of the Local Government Division's program was toward the elimination of branch offices of the national government performing the same or overlapping functions as those performed by the prefectural governments.

1. Coordination within SCAP Sections and the Japanese Government. The first step, therefore, for Local Government Division was to formulate a definite policy which the Chief, Government Section, could approve as the Section's policy to guide the course toward realization of local self-government in implementation of Chapter 8 of the new Constitution.

The second step taken in developing an adequate law in terms of a settled policy involved the many conferences held with five different groups of Japanese in Tokyo. These conferences and discussions were carried on daily and, although entailing much time and effort, yielded most fruitful results. The first group of conferences and discussions was held with the high ranking officials of the Ministry of Home Affairs and of the Ministry of Finance because of the direct and indirect jurisdiction of these two Ministries over all the affairs of the local public bodies. Further effort was directed toward the Ministry of Commerce and Industry, Ministry of Agriculture and Forestry, Ministry of Education and Ministry of Welfare. The essential work was with the Ministry of Home Affairs at the beginning, almost entirely with the Bureau of Local Affairs, particularly with the bureau and departmental chiefs, because it was necessary at the outset to obtain facts in law and in procedure for the operation of the three levels of local government as the bureaucracy in Tokyo conceived them to be and, in fact, actually directed the local officials to carry out. In daily meetings week after week the details of every article of each of the five organic laws affecting local government were analyzed. The same process was followed in the examination of the enforcement ordinances for each of the laws and of the Imperial Ordinance concerning the authority of local officials. It was fundamental, of course, to the proper implementation of the established policy for the

entire program to have these sets of facts together with the Japanese bureaucratic reasoning and conception not only of what local government had meant, but also of what it could mean under the new policy.

A second series of conferences and discussions was undertaken with the executive members of the many political parties. All the political parties, those which had membership in the Diet and those which had failed to elect candidates to office, were asked to submit expressions of opinion and definite proposals. In each of the detailed conferences, sharp distinction was made between statements of specific party programs and the personal opinions of the various members of the parties. Some of the most interesting observations in Local Government Division's records are found in these various interviews because of the wide range in thinking and the earnestness in presentation of views by the participants.

A third series of conferences and discussions was held with the women members of the Diet, not as members of particular political parties but, more especially, as representatives of specific electorates in their respective districts. Their insight into the issues of village, town, city and prefectural governments was a revelation to many people, not the least of whom were the Japanese men representatives. Too many had discounted their abilities. Without particularized backgrounds or special training in governmental and political matters, they displayed the greatest common sense, advancing practical, workable solutions to many issues. Their contributions can mainly as suggestions concerning governmental organizations for schools, matters of health and welfare, elections and the duties of voters, and what are frequently referred to as "matters of good citizenship."

A fourth series of conferences and discussions was held with men and

women from educational institutions and learned societies. Their remarks and contributions were not confined to matters requiring long range policy and planning and activation in the distant future; the members contributed definite proposals of immediate applicability. The freedom with which they spoke up and the substance of their remarks was a tribute to the perspicacity of the political scientists as a group. That they had previously been reticent about expressing views that might be considered liberal was due to the restrictions and threats to which they were subjected under the old military cliques.

A fifth and final set of conferences and discussions was held with the Diet committees specifically appointed to deal with the development of local autonomy. The Diet committee in 1946 contained a number of members who were eager to see removed the long-standing and unwarranted national restrictions on their local communities. This special committee was of a temporary nature, as were most committees under the old Imperial Diet. Nevertheless, these members, recognizing their new position of responsibility as legislators with actual power, exerted themselves to attempt legal realization of long-cherished hopes for the improvement of the local government system. The new Diet, meeting under the new Constitution, established twenty-one standing committees. Thereafter, the Local Government Division dealt with the members of the Standing Committee on Public Safety and Local Government established in each House. Each of the committees made great and earnest efforts to produce a law which would strengthen and clarify the powers and responsibilities of all local entities. Indeed, the members of both committees contributed a number of ideas of their own in contrast to the basically bureaucratic concepts originally put forward in the government bill. Their contributions were

responsible for a great many amendments to the original government bill. Because the Standing Committees are the executive elements of the Diet charged with the responsibility of implementing Chapter 8 of the Constitution, the discussions and remarks in the committee sessions were of a more "finished" and formal nature than those of the previous four series of conferences discussed above. All the ideas from these other four groups were transmitted to the two committees for their consideration. The committees then became the governmental crucibles in which all the political elements were fused to produce a final law for the plenary session of the Diet to consider. The free and unrestricted pooling of the opinions, suggestions and points of view upon courses of action to be taken in the preparation and passage of a real law on local autonomy, forms a record of deliberations unique in the history of Japanese governmental affairs.

2. Field Surveys. The third step taken to carry out the program consisted of many detailed investigational trips and surveys into the prefectures. The purpose of these trips was not only to gather facts and opinions in the field, but to test against the opinions and comments of the people in the local areas the facts and opinions that had been amassed in Tokyo.

The work in the field was done in two stages. The personnel of the Military Government Teams were met before the Japanese and the mission was explained to them. They responded with friendly and instant aid. Their reports and records, as well as their volunteered information and advice on the "local situation," proved of great value. This type of information was always welcome, for it could not otherwise have been acquired by the members of the Local Government Division in the time available for the survey.

The many interviews and long discussions with the local Japanese authorities took place in the villages, towns, cities and prefectures. The checking process on the Tokyo data was something new to them. The reactions of the local people to the ideas and plans put forth for them by the Tokyo bureaucrats and others were always revealing. The reactions varied: At times there was agreement, sometimes amazement or simple disappointment and regret was registered. At no time during the entire field checking did any official fail to state his opinion upon a problem or an issue put to him. In the prefectures the discussions were held with the governors, departmental and sectional chiefs and the chairmen and members of the prefectural assembly. In the villages, towns and cities they were with the mayors, their deputies, section chiefs and the chairmen and members of the assemblies. Many other conferences for fact finding, checking and testing were carried on with quasi-governmental officials and with some of the leading citizens in the various communities, such as representatives of the press, financial institutions, industrial companies and farm organizations. The localities in the far North at Wakkanai and Habomai, Hokkaido, and in the far South at Yamagawa and Kagoshima were the extremes in distance from the central government covered by the field trips. In more than one locality there was the expressed hope that a "hands and legs" government would soon be relegated to history and that it would be replaced by a thinking government, one in which local needs, ideas and desires would be influential in the local public body's life.

On the return to Tokyo the reactions of the government officials to the information and ideas gathered in the villages, towns, cities and prefectures served as a counterpart to those previously shown by the local officials to the Tokyo ideas. In some instances the bureaucrats showed

ready agreement with the data, in others, outright astonishment and, in some, deep resentment at having their thinking and planning questioned or challenged. The results of these interviews, discussions and talks, both in the local communities and in Tokyo attest to the fact that all the brains capable of planning for, establishing and carrying out responsible government, either locally or nationally, do not rest with the bureaucracy in Tokyo.

This part of the program, to produce a reorganization in all the local governments, required a basic six months' period of travel over all Japan. This basic period was supplemented by another period approximating four months in which another series of field investigations was undertaken in order to examine proposals, procedures and practices, and to analyze the reactions to new plans and considerations.

VI. THE LAW CONCERNING LOCAL AUTONOMY

The Law Concerning Local Autonomy, enacted April 17, 1947, for the first time in the history of Japanese governmental affairs established legal rights and procedures through which the people can participate in their local governments.[3] Moreover, for the first time the law has brought to all local public bodies, villages, towns, cities and prefectures the executive and legislative branches of government as they are understood by the Western democracies. There has been a severance, long needed, of the executive's powers of domination over the legislature. In the executive's department there have been desirable changes in the administrative organisation. The nature and extent of the reforms may be gauged from a brief explanation of the law's provisions with respect to:

The People's Position in Relation to their Governments.

The Powers and Responsibilities of the Executive together with the administrative Reorganization.

The Powers and Responsibilities of the Legislative Body.

1. <u>The People Vis-a-vis Autonomy.</u> The people of Japan have been brought in close relation to the village, town, city and prefectural authorities. The citizens of each local government today have powers which they can exercise directly for dealing with their chief executive, their legislators and other elected officials.

a. The voters have the power of recall.

(1) The first use of this power is when an electorate is dissatisfied with the chief executives or particular members of the assembly; the voters, by following the procedures of the law (Articles 80, 81, 82, 83) may cause the individual or group of individuals to vacate his or her or their offices. The steps taken are as follows:

3. Appendix H: 14,

(a) The persons concerned draw a petition which must be signed by one-third the voters of the local public body, whether it is a village, town, city or prefecture;

(b) The petition is then given to the Election Administrative Committee which forthwith must hold an election;

(c) If the election by a majority vote of the electorate is unfavorable to the person or people, he or she or they must vacate the position (Article 88).

(2) The second use of this same power can be taken by the voters to cause dissolution of the assembly, the steps for which are the same as those given above.

(3) The third use of this power concerns the recall and removal of the assistant governor or mayor, the assistant head or treasurer, electoral administration committeeman or inspection commissioner, as is provided in Article 86. These people are not elected to their offices, but appointed with the ratification of the assembly; their recall and removal procedure necessarily is different from the two situations already given:

(a) A petition to start the proceedings must be signed by at least one-third of the voters;

(b) The demand is given to the mayor who must forthwith:

(1) Make the matter public; and

(2) Present the case to the assembly;

(c) The vote of the assembly can only be taken if two-thirds of the members are present; it is an unfavorable vote if three-fourths of the members cast their ballots against the incumbent; and

(d) The notification to vacate is given to the official by the chief executive rather than by the Election Administration Committee, as is the case with the elected officials.

b. The second power which can be exercised by the people directly is the initiative. Many issues - the enactment, revision or repeal of by-laws - may come before the public for which they will desire to start proceedings of their own. Moreover, they may desire to force a slow-acting local public body to make a decision. The steps in this procedure are as follows:

(1) The petition to get the issue started requires but one-fiftieth or 2% of the voters:

(2) The petition is presented to the mayor who must

(a) Make the demand public, and

(b) Within twenty days call a meeting of the assembly, should it not be in session, and then present the demand, together with his opinion, to that body.

(3) The assembly has to act one way or the other; and

(4) The mayor must make the result known to the public. (Article 74)

Another form of the people's power to demand action is their right to require the inspection commissioner to undertake a particular investigation into the management of any public undertaking or, more especially, into financial affairs. The petition goes to the inspection commissioners who must make the demand and also the investigation known to the public and, after completion of the investigation, report the findings publicly to the assembly and to the chief executive. (Article 75)

c. The third power of the citizens of any local public body con-

cerns the right of the individual, man or woman, to bring suit against the local public body itself for recovery against an illegal action committed by that body. This issue, now before the Diet, is expected to be enacted as an amendment to Article 96 of the Law. In addition to the section which will be added for such a needed right, there are general provisions of the Civil Code which establish procedures for citizens to recover damages from local public bodies.

d. The fourth power provided the individual citizen is his or her right to sue any official personally for his wrongdoing as an official, similar to a "taxpayer's suit" in the United States. An amendment to Article 243 provided this long needed remedy.

2. <u>The Powers and Responsibilities of the Executive</u>. Under the Law, the functions of the governor of the prefecture and the mayors of the village, town and city follow the principles of representative government. The changes introduced by the Law are fundamental. The prefectural governor has a dual capacity: first, he is the elected chief executive of the prefecture performing local functions; second, he is a national official performing national functions. The position of the mayor differs; hence it is treated separately.

a. The governor as local official. Any citizen thirty years of age and eligible to vote is eligible to run for the office of governor. The candidate need not necessarily be a resident of the prefecture in which he runs for office; age and Japanese citizenship are the two tests of eligibility. The governor has a four-year term of office, as have the chief executives of city, town and village. However, the term of office as used in Japan is actually not "fixed" in the sense in which the term is used in the United States, because the chief executive can, during this

term of four years, be ousted by a vote of non-confidence. This procedure follows the British pattern.

Certain restrictions are put upon the governor the moment that he assumes office. In general, they are the following:

(1) He shall not hold either the office of Councillor or the office of Representative in the National Diet concurrently with his governorship;

(2) He must not make any contracts with the public entity, directly or indirectly;

(3) He must give a thirty-day notice before resigning from office, unless he has the consent of the assembly (Article 140, 141, 142, 145); and

(4) He may not appoint his wife, one of his children, one of his parents, or brother or sister to either the offices of chief or deputy accountant or chief or deputy treasurer. (Article 169)

Concerning personal matters:

(1) The governor's salary and travelling expenses are provided by law (Article 204); and

(2) Upon retirement the governor is given an allowance and, in case of his death, his family is given an allowance. (Article 205)

The governor as the chief executive of the prefecture has charge of and coordinates all departments:

(1) He supervises some specific and administrative organs (Article 156); and

(2) He must set up such bureaus and departments as are provided for specifically by Diet law, or by prefectural by-law. With regard to the establishment of those departments designated as permissive, he has

discretion. (Amended Article 158) Moreover, in case he believes that any act of an administrative officer is ultra-vires, he can suspend its action. (Article 151)

Formerly, the governor was the coordinator of all the offices of national agencies situated in his prefecture, subject only to the instructions or veto of the Cabinet Minister concerned. Now he does not have this general authority unless the law which sets up given kinds of prefectural offices specifically provides him with this responsibility. (Article 157). In the event an office or department is to be abolished or transferred by Cabinet Order under an existing law, the governor takes the action and should anyone refuse to comply, he can be given a fine, the maximum of which is ¥2000. (Amended Article 159).

Specific functions of the governor include:

(1) Administers all functions of the prefectural government for which the prefecture pays the cost. These functions cover all the usual range of local government activities such as police, fire, public works, roads, agriculture or fishing;

(2) Presents bills to the assembly for legislation, as well as other messages and communications,

(3) Manages the real estate and establishments of the prefecture,

(4) Is the chief accounting officer of the prefecture,

(5) Possesses the custody of all official documents, papers and instruments. (This function should not be confused with the jurisdiction of the newly established assembly libraries to be instituted in conformity with the law Concerning Local Autonomy),

(6) Enforces and authorises the collection of the inde-

pendent local taxes, charges, fees, and rents according to national laws or prefectural by-laws.

(7) Administers other governmental matters not otherwise specifically provided for (Articles 147 and 149).

(8) Makes appointments of personnel and exercises discipline (Article 154).

The governor may derive further local government powers from other national laws. His functional powers in particular fields of government are found in such laws as the two following:

(1) In Police Law, Section 5, Article 20, the governor is vested with the following authority:

> "There shall be established under the jurisdiction of the Governors of To, Do and Prefectures Public Safety Commissions of To, Do, and Prefectures.
>
> "The Public Safety Commissions of To, Do and Prefectures shall exercise operational control over the National Rural Police of To, Do, and Prefectures."

Article 21 provides:

> "Members of the Commission shall be appointed by the Governor -- with the consent of the assembly, etc."

Article 24 gives the governor authority to dismiss members of the commission for cause with the consent of the assembly or if two members belong to the same political party.

(2) In the Fire Defense law complete authority is given to the mayors of villages, towns and cities. Article 17 thereof, however,

reserves to the governor the following:

> "The fire defense of such special wards shall be controlled by the Governor of To.
>
> "The Chief of the Fire Department of special wards shall be appointed and dismissed for cause by the Governor of To."

Article 22 provides:

> "The mayors and headmen of cities, towns and villages shall, on forms and in the manner provided for by the National Fire Defense Board, make reports of fire defense statistics to the National Fire Defense Boards through the Governor of To, Do and Prefectures."

Article 24 provides that the Fire Board, the National Safety Commission, the governors and the mayors and headmen may make agreements beforehand to carry out the purpose of the Act effectively.

The governor of a prefecture may have from one to three assistant governors who, under certain delegated authority, act on behalf of the Governor but have no authority in their own name. Only when the governor dies or vacates his office can one of these assistants actually assume the office and the powers of governor until an election can be held and a new governor selected. The assistant governor is appointed by the governor after confirmation by majority vote of the assembly. If there is more than one assistant governor, assumption of the governor's office is in the order of their previously fixed priority as provided for in a prefectural by-law. If both the governor and the assistant governor are disabled at the same time, the senior secretarial official temporarily

carries out the duties of the governor. (Amended Article 247). The governor has the power to delegate temporarily any of his duties to an official of the prefecture (Articles 152 and 153).

The governor has many duties and responsibilities in his executive relationship with the assembly. The major ones are listed below:

(1) His general duty is to call the assembly for the regular and special sessions although the assembly has certain rights also regarding the same;

(2) It has been the custom in Japan for the governor to introduce most of the bills into the assembly, but it is not his exclusive jurisdiction because any member of the assembly can likewise introduce bills;

(3) Perhaps of all the bills which the governor introduces into the assembly, none is more important than the budget which by law he must prepare and submit (Article 234). Later, if necessity arises he may supplement or submit revisions of budget which has been passed (Article 236); and

(4) He is required to make a financial report at least three times a year to the public at large. The assembly through a by-law can specify the dates of such reporting to the public.

Differences of opinion on public affairs between the executive and all of the legislative bodies are settled in two ways:

(1) The governor may send the issue back to the assembly for reconsideration when he considers it ultra-vires. If the reconsideration is refused, the governor may bring an action in court (Article 176);

(2) He can and probably will rely upon the procedure of non-confidence. This generally results from irreconcilable differences on

the budget (Article 177). In the exercise of the vote of non-confidence the governor takes one of two steps:

(a) He dissolves the assembly, bringing about the election of a new assembly, and then waits for a confirmation of his stand from the newly elected assemblymen. Should he not receive a favorable vote, he must resign forthwith and a new gubernatorial election would be held; or

(b) he decides not to dissolve the assembly, and, therefore is forced to resign immediately. The Election Administration Committee must hold an election within the specified period provided by the law (Article 178).

The governor's powers in relation to other matters of the prefecture are supervisory but far different from those under the old law Concerning the Organization of Urban and Rural Prefectures, and other ordinances. He can remove a mayor of a village, town or city from office for cause only (Amended Article 146). The process is through a mandamus procedure which involves the courts. The Japanese had utilized this procedure administratively in a minor way. The officials were interested in it and desired an extension of it to suit the new situations. Because the removal of a person from high elective office is serious action, the function of doing so is no longer left to administrative discretion. Thus the power of removal is no longer left to the simple discretion of the governor and the man who appointed him, the Minister of Home Affairs.

As another local right, the governor instead of the Minister of Home Affairs, decides changes in the boundaries of any political subdivision on the basis of appropriate proceedings by the local public entities involved. (Amended Article 259). The same determination is made with regard to

divisions of local entities (Amended Article 260). When two or more prefectures join in a project for some specific purpose, the governors choose a central chairman from among those concerned. (Article 253)

b. The Governor as a National Official. The other half of the dual character of the governor's position is evidenced when he acts as a national agent for a competent minister of the national government, as provided for in a Diet law. As such, he is responsible for the execution within the prefectural boundaries of Diet laws and Cabinet and Ministerial Orders relating to national affairs. The administration of many functions during critical economic conditions following war and defeat had to be executed under nationally established policies in order to conserve and allocate scarce materials and food products. The cooperation of the governors in carrying out the rice delivery quotas and other similar programs indicate that this dual system can work effectively in Japan. Until normal conditions return on all levels of government, especially in finance, local governments will be working under certain restrictions.

The governor, acting as a representative of the Central Government, is responsible for central government funds placed in his hands for national purposes.

(1) The Administrative Offices Law of 1947 in Article 7 provides the competent ministers of the Central Government with directive and supervisory powers over the heads of the local governments when the latter are to execute national affairs. The Law Concerning Local Autonomy gives the Central authorities a procedure for bringing a governor to account for failure to carry out the prescribed duties under the national law or cabinet or ministerial orders. The mandamus proceeding is incorporated in an amendment to Article 146, and applies not only to the governors but to

mayors also. The amendment provides a simple, relatively swift and effective method of forcing governors to carry out national functions assigned to their offices. In certain cases of necessity it allows the ministry concerned to take over particular duties until they have been accomplished. The proceeding also provides for the removal of the governor in cases in which he refuses to act after a court order has been issued requiring him to do so. The removal is made by the Prime Minister after the case is referred to him from the appropriate High Courts. The proceeding is in three parts:

(a) The original or mandamus hearing;

(b) The contempt hearing, and

(c) The transfer of the case by the High Court to the Prime Minister for removal proceedings. While this proceeding is designed to provide a method of control by the central government over the execution of national laws and orders in the prefectures, it also affords to the governor a sounding board on which he can raise legal objections to laws which might be unconstitutional or otherwise unpopular with his constituents. (Amended Articles 146 and 150).

(2) In the execution of national laws, the governor may at times perform acts unpopular with his local constituency. As national official he has the task of persuading his constituency of the necessity for such actions in the execution of national laws and policies.

(3) Further assignment and delegation of national functions to the governors can be observed in some newly passed Diet laws.

(a) In the Road Transportation law there are delegations of authority to the governor. Article 4, paragraph 5, sub. 2 provides:

"The power or authority provided in Chapter V shall be delegated or commissioned to Director of Road Transportation Supervision Office as well as to Governor of To, Do, Fu or Prefectures."

Sub-paragraph 3 provides:

"Matters pertaining to entry or use of land for the purpose of constructing automotive car road may be delegated to Governor of To, Do, Fu and Prefecture."

Article 8, paragraphs 5 and 6, provides that the governor shall make recommendations to the Minister of Transportation and he, in turn, to the Prime Minister and the members of the Local Road Transportation Commission.

(b) The Employment Security Law, Article 7, leaves to the governor the following:

"The authority to manage such affairs concerning the enforcement of E.S.L. as control of the business of the Public Employment Security Office and the supervision of the chief of personnel thereof."

Article 9, page 8, provides as follows:

"The authority to appoint and discharge the third officials and other personnel who are engaged in the affairs concerning the enforcement of the Employment Security law in the Prefectural Office and in the Public Employment Office."

Article 10 gives the governor authority to appoint and to discharge liaison officers.

Article 27 gives to the governor the authority to establish and to maintain vocational training projects or to delegate this authority to some other agency.

Article 55, page 3, gives the governor authority to expend necessary funds other than those given by the central government to carry out the purposes of the Act.

(c) In the Unemployment Insurance law, the authority to give approval to employers desiring to come under the Act, a normal function of the Labor Ministry, is delegated to the governor in Article 8, page 1, and Article 13, page 1, and Article 62 of said law.

(d). The Disaster Relief Law, Article 12, gives the governor power to take over supervision of business, production, collection, sales, distribution, custody and transportation of supplies necessary for relief, or he may expropriate necessary relief supplies. Article 13 gives him or agents authority to enter places to look for supplies and to demand reports thereof. Article 22 gives to the governor the exclusive jurisdiction of handling relief work under the Act. Article 24 gives him authority to requisition medical construction, engineering, and transportation facilities to aid in the relief of disaster under the Act. Articles 25, 26, 27 and 28 delegate other similar powers.

(e) In the Children's Welfare Law there are sixteen paragraphs which give certain powers to the prefectural governor. Article 8 places the Local Child Welfare Board under the jurisdiction of the governor. Article 9 gives to the governors and the Welfare Minister authority to appoint members to the Central or Local Welfare Boards. Article 11, gives the governor authority to designate in which area the welfare workers shall be assigned. Article 16 provides that Child Welfare Stations

shall be under the jurisdiction of the governors. Article 19 places the Welfare Program and security phases of Chapter 11 under the supervision of the governors.

(4) The governor exercises direct supervision over the prefectural administrative departments which handle the affairs of the area. The Law in Article 158 establishes the department (bu) as the highest administrative division in the prefectural government. Within the department are the sections (ka) and within these are the units (kakari). Before the enactment of the Law, the department was an integral part of the bureaucratic ladder of organization with the Chief of the department looking to Tokyo for recognition and promotion. Today he has reached the highest administrative office in the local autonomous system. The details of organization of Civil Service for the local public bodies will be provided for by the Diet; selection, placement, training, promotion, dismissal, retirement, salary, pension and such related affairs will compose the substance of the law.

Because the structure of the administrative departments affects the whole prefectural government, it was desirable to continue the development of the structure of the departments in harmony with a principle utilized by Western countries as well as by Japan itself for over half a century; thus the division of fixed and permissive categories for departments was retained. It was found desirable to have such departments as are basic to all prefectures the same, because of the advantage of simplicity and uniformity, and in order that the major functions of prefectural governments in their dual capacity could be carried out essentially through these fixed departments. Because of some prefectures having divergent interests with a major volume of business, it was desir-

able that a series of permissive departments be allowed so that these local specialities could be performed. The stated limit of the permissive departments was considered advantageous, as it allows for conservative expansion in the future.

Article 158 provides for the prefectural departmental organization. The mandatory class contains the departments of General Affairs, Health, Education, Welfare, Economic Affairs, Agricultural Land and Public Works, and the permissive class contains the departments of Agriculture and Forestry, Forestry, Commerce and Industry, Labor, Fisheries and Public Utilities. In Tokyo-To and Hokkaidō some few variations are found. The law makes quite clear that no prefecture need form a permissive department unless the prefectural government desires to do so. The Central ministries in Tokyo can suggest that the permissive departments be established; the suggestion, such as it is, may be taken or may not. Under no conditions can the Central ministries order the particular permissive department established.

The prefectural governmental structure, as provided in Article 158, has ample room by itself to accomplish all the work necessary to administer the prefectural government, not only in its local character for functioning locally, but also in its national character in functioning nationally. Besides the prefectural office, there had been the establishment of national branch offices of a duplicating and overlapping character. The prefectural authorities should prevent such mismanagement. They have the legal power for many cases under Article 156, which states:

> "No local branch office (including fixed staff. The same rule shall apply herein and hereafter) shall be opened by any Ministry or Central Governmental agency

hereafter without first being authorized by the Diet. All funds needed in connection with the operation and function of such authorized branch offices shall be paid for by Ministry or Central agency concerned.

"The provisions of the preceding paragraph shall not apply to the judicial administrative and disciplinary organs, police offices, railroad, communications, postal services (including insurance and savings divisions), national institutions of learning, national hospitals, and sanitariums, navigation, meteorological stations, hydrographic organs, harbor construction offices, and forestry stations and public works branch offices whose functions are solely supported by the national treasury."

3. The Powers and Responsibilities of the Legislative Bodies. The powers and responsibilities of the village, town, city and prefectural assembly have undergone far-reaching changes. Today the assembly is a legislature of real power and responsibility. It is a representative organ government, free to deliberate for the best interests of the people. All of the actions taken by it must be within the Constitution and subject to existing national laws. The people now have a real part in government of their local entities. From their already expressed eagerness, they may be expected to develop and utilize their assemblies to the full.

a. The assembly derives its existence fundamentally from the Constitution, Article 93 of which provides, "The local public entities shall establish assemblies as their deliberative organs, in accordance with law." This is implemented by Article 89 of the law Concerning Local Autonomy, which states that, "An ordinary local body shall have its

assembly."

b. With the exceptions noted below any qualified voter twenty-five years of age or over is eligible to run for the local assembly of the community in which he resides. The exceptions are: holders of certain positions which by their nature disqualify the candidate (such as election officials, public procurators, Diet members, or paid official of the local public body concerned); persons subject to certain stated physical or mental disabilities, or persons who have committed certain crimes against society. Each assemblyman is elected by the voters of a given electoral district (the size of which varies according to the population (Articles 22 and 91). The term of office is four years (Article 93).

c. After its election the assembly convenes to organize itself. In general, three parliamentary steps are taken:

(1) The assembly elects from its members a chairman and a vice-chairman (Article 103). The chairman,

(a) presides at the meeting,

(b) maintains order and discipline among the spectators and among the members themselves, and

(c) conducts the business which comes before the assembly in an orderly fashion (Article 100, Section IX).

(2) The standing committees receive their new members and special committees may be appointed, and

(3) The calendar or agenda is drawn up.

d. Powers and responsibilities of the Assembly.

(1) The powers of all the local assemblies are derived from the Constitution, Article 94, which reads:

"Local public entities shall have the right to

manage their property, affairs
and administration and to enact
their own regulations within law."

(2) This is implemented by laws passed by the Diet of which the principal one is the Law Concerning Local Autonomy. Article 14 of that law reads as follows:

"An ordinary local public body may promulgate any by-laws on affairs mentioned in paragraph 2 in Article 2, unless the by-law contravenes the national law, cabinet order and ministerial regulation duly authorized by law.

"The local public entity shall stipulate its disposition of the administrative affairs by its by-law unless otherwise provided by the national law, cabinet order and ministerial regulation duly authorized by law.

"The prefectural government may stipulate the disposition of the administrative affairs of the city, town and village by its by-law unless otherwise provided by the national law, cabinet order and ministerial regulation duly authorized by law.

"If the city, town and village by-law regarding the disposition of the administrative affairs contravenes, to that of the prefecture mentioned in the above clause, it shall be null and void.

"The local public entity may stipulate by its by-law the imposition of the imprisonment with or without hard labor not exceeding two years, the fine not exceeding ¥100,000, the detention, charge or confiscation for the violation of its by-law unless otherwise provided by the national law, cabinet order and ministerial regulation duly authorized by law.

"The crime specified in the preceding clause falls under the jurisdiction of the national court."

Article 2 empowers assemblies to enact any by-law which they deem fit in regard to the affairs of the local entity, provided that it is not contrary to the Constitution or that it does not contravene a law passed by the National Diet. The subject matter of these by-laws is wide and varied, ranging from by-laws regulating traffic to by-laws levying taxes necessary for the operation of the local entity. The type and nature of the jurisdiction which can be exercised by each public body are illustrated by the following:

(1) To maintain local public order, protect and preserve the safety, health, and welfare of the inhabitants and visitors thereto.

(2) To establish and manage parks, playgrounds, open spaces, greens, roads, bridges, rivers, canals, reservoirs, irrigation and drainage waterways, and dykes and similar matters, and to regulate the rights to use them.

(3) To manage water plants and other water supplies, sewerage systems, electric plants, gas plants, street-car services, automobile services, vessels and other transportation systems, and other services.

(4) To establish and manage docks, moles, piers, wharves, warehouses, sheds and other establishments necessary for other maritime and land transportation and to regulate the rights to use them.

(5) To establish and manage schools, laboratories, experimental stations, libraries, art museums, goods exhibitions, auditoriums, theaters, musical pavilions and other establishments relating to education, science, culture and promotion of industries, and to regulate the rights to use them.

(6) To establish and manage hospitals, isolated wards, sanatoriums, disinfecting stations, maternity hospitals, residences, hostels, dining-halls, baths, public latrines, pawn-shops, workhouses, public nurseries, asyla for the aged, almshouses, reformatories, jails, butcheries, dust-disposing stations, dirt-disposing stations, crematories, cemeteries, and other establishments relating to health and sanitation and social welfare and to regulate the rights to use them.

(7) To clean, disinfect, beautify, and prevent noises or to restrain acts injurious to public morals and acts staining cleanliness and besides to deal with the matters relating to health and sanitation and

refinement of public morals.

(8) To prevent crime, to prevent disasters, and to carry out relief and protection of victims of disasters and to deal with similar affairs.

(9) To relieve, protect and care for minors, the poor, the sick, the old and weak, widows, defective persons, vagrants, insane or inebriate persons and similar persons.

(10) To manage forests, meadows, land, markets, fishing water surface, public workhouses and besides to undertake profit enterprises deemed to be necessary for the promotion of public welfare.

(11) To carry out hill and river improvements, agricultural land development, adjustments of arable land, reclamations of land from public water surface, city planning, improvements of districts under poor conditions and other improvements of land.

(12) To deal with affairs relating to fostering and promotion of inventions, improvements of special products and other increase and improvements in production.

(13) To protect and manage historic places, places of scenic beauty, and monuments.

(14) To investigate the matters necessary for disposition of affairs of an ordinary local public body and to make statistics of them.

(15) To deal with the affairs relating to official registers, identification and registering and other similar matters relating to the inhabitants, visitors thereto and other persons deemed necessary.

(16) To inspect carry out inspection with respect to such matters as relate to moters, various products, domestic animals.

(17) To establish limitations relating to structure of

buildings, facilities, the area of yards, court density, open space districts, the areas on the basis of dwellings, trade, industry and other state of business of inhabitants in accordance with the determination of laws.

(18) To appropriate, enter upon and hold personal or real property for any public purpose in accordance with the determination of laws.

(19) To adjust and coordinate the activities of the public bodies and other similar bodies within the area of an ordinary local public body.

(20) To levy and collect local taxes, rents, fees, alloted charges, entrance fees, or statutory labor and actual articles in accordance with the determination of laws.

(21) To create and manage the permanent property, sinking funds and besides the reserve fund and grain and similar matters.

An ordinary local public body may not deal with such national affairs including but not limited to those mentioned as follows:

(1) Affairs relating to all judical matters.

(2) Affairs relating to penal punishment and national disciplinary punishment.

(3) Affairs relating to national transportation and communication.

(4) Affairs relating to post.

(5) Affairs relating to national institutions of learning and research.

(6) Affairs relating to national hospitals and sanatoriums.

(7) Affairs relating to national navigation, meteorological

and hydrographic institutions.

(8) Affairs relating to national museums and libraries.

A special local public body shall, in accordance with this Law, deal with its affairs.

A local public body shall not deal with its affairs as contravene any laws or cabinet orders or ministerial regulations duly authorized by law, and, furthermore, a city, town or village or a special ward shall not deal with its affairs as contravene any bylaws of the metropolis, district or urban or rural prefecture concerned.

The actions of a local public body which have contravened the provisions of the preceding paragraph are null and void.

e. An assembly today, as contrasted with its previous existence, has the power to regulated itself and to determine to a certain extent its own membership. This power in itself is very important as it could deprive the electorate for a certain period of time of full representation. This power is exercised by the Assembly when it passes on certain qualifications of its members and when it exercises its right to discipline its members for misconduct even to the extent of expulsion. (Section IX)

f. Some of the most far reaching powers ever to be exercised by an assembly in Japan are provided in Article 100. An assembly during the course of its existence can investigate the affairs of the local entity in a far more thoroughgoing and final manner than ever before provided. The assembly, as it may deem necessary, or the special committee conducting the investigation, has the power to summon persons to give information. This person, of course, is required to appear. If the assembly determines that this person has given a false statement, he is subject to imprisonment. If, however, prior to the conclusion of the investigation he tells the truth, then the assembly may not refer the person to the procurator for prosecution. The assembly itself has no power to inflict punishment; it can only refer the facts to the procurator for whatever action he may decide to take. This power for the assembly has long been needed and from evidence thus far shown it will act as a decided support for strong local autonomy.

A person who is called upon to give testimony or present records relating to official secrets may decline on that ground. The assembly must then obtain the consent of the government or public office concerned before the person is forced to give the testimony or produce the records. If within thirty days after being requested, the government or public official either does not declare the matter in question contrary to the public interest if disclosed, or gives its consent to its disclosure, then the testimony must be given or the records produced. (Article 100)

This investigatory power of the assemblies is extremely important, as it may involve the right of the assembly to question the acts of the chief of the local public body by demanding reports and examining his management of the affairs of the local body, his execution of resolutions and the manner of raising revenue and the expenditure thereof. (Articles 98 and 121).

The power does not apply to the management of local affairs only. It also applies to national affairs delegated to the chief of the local public body. If these matters concern public interest, a written statement may be sent to the administrative office concerned. (Article 99)

This power to call an official of the local government to report or make explanation is not limited to the chief of the local public body. It applies equally to any official including members of the Election Administration Committee and the Inspection Committee. (Article 121)

The assembly need not conduct the investigation itself, but may call upon the inspection committee to make an inspection of the affairs of the local public body and upon completion of its inspection to make a report to the assembly. This should be the normal procedure for routine inspections or investigations as the inspection committees often are constituted from members of the assembly. (Articles 98, 195 and 199)

g. The question of finance is always a matter of major importance to any public entity. Because of this the assembly has been given great power in this field. Every matter involving finances must be considered by the assembly.

The chief of the local public body has the responsibility of preparing the budget, but the final responsibility rests in the assembly, as it has the power to revise before approval. The work of the assembly in regard to the receipts and expenditures is not completed upon approval of the budget. In addition, the assembly must be informed of proper accounts through an audit of the receipts and expenditures. (Article 240)

Practically every financial transaction of the local public body must be approved by the assembly or conducted in accord with a by-law previously adopted. The amount of salary and allowances of public officials and employees (Chapter 8), the obtaining of a local loan (Article 226), the establishment of a special account (Article 239), and many other matters, all require action on the part of the assembly.

h. The assembly has many duties in regard to the appointment and dismissal of personnel of the local public body. It elects the electoral administration committee which controls the election machinery of the local public body. (Article 182)

The inspection commissioners are appointed with the consent of the assembly. Their duty as watchdogs of the government, to prevent improper practices on the part of the public officials, is of extreme importance. The vice-governor and certain other officials are appointed by the governor, but the consent of the assembly is required to complete the action. Further, these officials can be removed by the assembly, either by petition of the electorate or the assembly's initiative. In the original appointment the number of officials is controlled by by-law. The assembly maintains by this

authority a close check on the activities of the executive and administrative branches of the government. (Article 102, 86 and 87)

i. The assembly has a number of additional powers and functions, all of which are important when required to be exercised, such as:

(1) Determining or changing the location of the office of the public body (Article 4);

(2) Disposing of property as a result of a boundary change (Article 7);

(3) Receiving reports from various committees and officials;

(4) Entering into mutual agreements for the creation of a partial affairs association (Article 284), and

(5) Conducting hearings for employees who feel aggrieved at the allowances given to them (Article 206).

j. The Law specifies certain affairs of a purely national character over which the assemblies of the local public bodies do not exercise any power. They are:

(1) Affairs concerning judicial administration.

(2) Affairs concerning penal and national disciplinary punishment.

(3) National transportation and communication affairs.

(4) Postal affairs.

(5) National institutions of learning and research.

(6) National hospitals and institutions of medical treatment.

(7) National navigation, meteorological and hydrographic functions.

(8) National museums and libraries.

Outside the additional powers which the assembly can now exercise, no more important addition has been made to their functions than the general provisions over standing committees. The law in Section 6, Chapter 6, Articles 109-10-11, establishes standing committees for the village, town, city and prefectural assembly. Article 110 provides for the appointment of other committees such as the local governments may determine in particular circumstances.

From many points of view, another important provision of the law is Article 100, which provides that all local public bodies will establish and maintain assembly libraries. This is new in the history of Japanese governmental affairs. These libraries will be the automatic depositories for all nationally published laws, Cabinet Orders, documents and other publications. Other publications of all types can be added. The standing committees will be insistent that material concerning their functions and work will be on hand for their use. The present allotments of funds from the meager and straitened prefectural treasuries, as well as the present allotments of physical space, together with the accumulated books and materials, are immediate barometers of the assemblymen's realization of their libraries' importance. Hitherto, all such laws, ordinances, books and papers have been the possession of the governor and a few other bureaucrats. They used the knowledge contained therein for their own purposes and to their marked advantage. In far too many situations the elected officials and assemblymen were neither informed of affairs nor given the opportunity to be informed themselves.

VII. THE ABOLITION OF THE TONARI GUMI SYSTEM.

During the war years the Japanese perfected a network of "neighborhood associations" known as the Tonari Gumi system, a feudalistic quasi-governmental institution, by means of which the personal lives, activities and even the thoughts of the people of Japan were brought under the effective over-all control of a mere handful of central government officials. This system provided a chain of command from the central government bureaucracy down to each family and individual, and channels of intelligence up to those central authorities. Ostensibly, the system was based on voluntary associations, but police intimidation, the latent threat of denial of the necessities of life and a general fear of retaliatory measures against nonconformists stifled any possible freedom of choice. During the war the Imperial Rule Assistance Association assumed dominant control over the system and utilized it for propagandizing the people with the official party line as well as for holding them under control.

1. History. The origins of the Tonari Gumi are deeply rooted. In order that the ruler of a large area or the governor of a province might safeguard his power and dominate the lives of the populace in cities, towns and villages, there has existed in the Orient, with China as its source, an arbitrarily imposed, mutual responsibility system--an espionage and hostage system of coercive protectionism. The population was divided into groups based upon family units with either appointed or indirectly elected heads, and organized in layers of responsibility resembling a pyramid. The base is composed of the whole populace which is divided into units or groups of from five to ten families called Tonari Gumi or Neighborhood Associations; the next level is composed of blocks, each made of ten units, the Chonai Kai or Block Associations; the next higher level is

composed of federations, or Rengo Kai, each made of one hundred blocks. Representatives from these federations, normally their heads, for the top body which is generally presided over by and receives instructions directly from the ruler or governor.* Because membership of these groups, units or blocks is compulsory, the entire population is blanketed.

The Chinese called this hierarchical spy system Pao Chia. The rulers of Japan in the 7th century introduced the Chinese system into Japan. During the protracted civil wars of the 14th to 16th centuries, the system fell into disuse, but later was revived under the Tokugawa Shogunate as Gonin Gumi, five-family units, and Junin Gumi, ten family units. These were used to discover and report Christians and ferret out other enemies of the regime such as lordless samurai, or warriors and generally keep the population under control. The Gonin Gumi was particularly effective as a spy-hostage system because each member was made responsible for the actions of all the others. In the Meiji Restoration Gonin and Junin Gumi were abolished; no voices appear to have been raised to deplore their disappearance. For seventy years thereafter Japan was, for all practical purposes, without neighborhood associations of the compulsory type.

The first move by the Japanese to revive the compulsory associations was made in Formosa Early in the twentieth century, where it was called the Hokō system. Through it the resistance of the Formosans and Chinese living there was reduced substantially.

After the Japanese entered Korea and Manchuria, they extended and intensified the use of the system under the name of Rinpo Han. Shortly after the launching of the China War and in preparation for the Pacific War, the system was applied to Japan itself with a change in name again. By September 30, 1940, the inhabitants of Japan had been organized by

* The heads of the various hierarchies were as follows: ChonaiKaicho for the Chonai Kai, ~~and~~ BurakuKaicho for the Buraku Kai, and ~~the~~ RengoKaicho for the Rengo Kai.

compulsion into 1,200,000 Tonari Gumi and 199,005 Buraku Kai and Chonai Kai. As of April 1, 1946, the number of Tonari Gumi remained substantially unchanged; the number of Buraku Kai and Chonai Kai had risen to 210,120. In Japan's conquest southward, the system followed the flag into China, Burma, Malaya, the Philippines and the Netherland East Indies as an annex of Japanese military government.

Legal justification for the existence of the Buraku Kai, Chonai Kai and Tonari Gumi was found in Ministry of Home Affairs Instructions No. 17, dated September 11, 1940, and in supplementary instructions issued thereafter. In addition, the two organic acts governing the organization of cities and of towns and villages provided for the transfer of certain powers to the Buraku Kai and Chonai Kai. The nature of this legal delegation of the mayors of cities, towns and villages to the heads of respective levels within the system is shown by the provisions within Article 38 and Article 94 of the Law Concerning the Organization of Cities.

> "Article 38. The mayor of a city is authorized to take such measures as are necessary concerning the management of the property and expenditures of the Chonai Kai and Buraku Kai and their Federations as well as for the alteration of the districts belonging to such Associations and Federations.
>
> "In cases where the mayor's permission is obtained, the heads of the Chonai Kai and Buraku Kai and their Federations may own property in their own names.
>
> "Article 94. The mayor of a city, in prosecuting part of his official business may engage the services of the heads of the Chonai Kai and Buraku Kai or their Federations."

Similar provisions for such broad delegation of authority in governmental affairs to private and quasi-private bodies or natural persons are found in Article 72 and Article 78 of the Law Concerning the Organization of Towns and Villages.

The Buraku Kai and Chonai Kai were formed from existing political units, such as streets, blocks or administrative districts, as determined by the mayors or the headmen of towns or villages. All households were organic units. Heads of the groups were appointed by city, town and village heads, sometimes on the basis of recommendations by members of the organizations. Although no salaries were paid, membership fees were collected from all households. Departments included women's, agricultural, cultural, health promotion, consumption economy, young men's tax payment and other economic and social functional titles.

The neighborhood associations had been most fully utilized as extensions of the executive agencies of cities, towns and villages. They provided thousands upon thousands of unpaid workers for local agencies of government, thus in actual effect placing an additional tax upon those ordered to serve. Furthermore, since no salaries were paid and the work was of a time-consuming nature, requiring much of the day, the average individual among the working element had been unable to accept a responsible position in the associations or had been forced to serve at considerable loss to himself. In many instances, therefore, the heads came from the "bosses" or, in some cases, loafers of the neighborhood, who had time to spare and who were not unaware of the opportunities for diverting rationed foodstuffs and other items to their own use. Such heads were destitute of any sense of public service, indifferent to the needs of the members, and in many cases had used their positions to become local despots. They had also served well the purposes of the Imperial Rule Assistance Association, the thought police and other instruments of oppression. Such individuals represented a serious danger to the successful democratization

of local government, not only because they were steeped in the past regime in methods of surveillance and regimentation, but because many of them had also built cliques and machines for their own patronage and control of local elections.

2. Steps in Abolition. In whatever manner the Tonari Gumi performed beneficial services, and there were a few, these could not compesnate for the attendant evils. The neighborhood association system, while pretending to historic continuity from medieval times, was in reality a wartime creation. Its ostensible purpose was to promote neighborliness, charity, goodwill and local democracy, but it actually fostered regimentation in so far as it brought every household in Japan under strict supervision and control.

Tonari Gumi chiefs represented the central government. They required all Japanese to observe the letter of each regulation. They served as spies, denouncing those who ventured to hold opinions differing from those approved by militarists. Tonari Gumi leaders controlled the machinery by which rations were distributed. If any individual dared protest against contributing his quota to bond drives or to ostensibly "voluntary" war service, or ventured to question the wisdom of the ultranationalist leaders of Japan, the Tonari Gumi chiefs could deny him food, fuel, and shelter.

On January 22, 1947, the Minister of Home Affairs, in Home Ministry Instruction No. 4, ordered the entire system abolished. Detailed instructions from the Vice-Minister set forth the conditions and the time limit in which the operation should be effected. Functions of a governmental character were to be transferred back to

to their proper agencies, while activities which were not governmental were left to individual or to private voluntary group action. These latter activities had always been of a private, personal nature and in normal times would have been carried on without authoritarian regimentation. Paragraph 1 of the Instructions stated:

"All administrative functions, presently performed by Chonaikaicho, Burakukaicho and Rengokaicho thereof, will be transferred to city, town, village or ward on or before April 1, this year."

To inform the general public, the Home Ministry issued newspaper releases explaining the Government's action. These followed immediately after the Instructions of Abolition of January 22, 1947. The following statement by Minister of Home Affairs, Seiichi Omura, was released on January 29:

"Through Home Ministry Instruction No. 17, issued in 1940, the Chonaikai and Burakukai were coordinated and strengthened as public organizations and throughout the war were utilized as the lowest branch of the local government administration.

"The Chonaikai and the Burakukai are entities which had originally evolved through a natural and voluntary process, but close and binding ties with the Imperial Rule Assistance Association during the war, were considered as a perpetuation of a system born of war whose aspects recall wartime regimentation and chauvinism. Thus most see in the concept of involuntary memberships in the Chonaikai and Burakukai the characteristics of a police state.

"Until the present moment, in view of exigencies of rationing, it has been administratively unwise to alter the structure of these organizations.

"Now, however, the continuance of the present structure is considered not only contrary to the principle of local autonomy but may also permit unscrupulous individuals to exercise improper influences over the forthcoming elections [In April 1947].

"It has been decided, therefore, to abolish Home Ministry Instruction No. 17. It has been further resolved that the positions of the heads of Chonaikai, Burakukai, and the Federations thereof will be abolished by April 1 and the administrative functions performed by them in the past will be transferred to the city, town, village, and ward offices concerned. Necessary measures will be taken to amend provisions of all relevant laws and ordinances.

"The certifications of residence and other functions necessary under present conditions which were performed by the heads of Chonaikai and Burakukai will be performed by the city, town, village, or ward offices. In order to effect this, as it may become necessary, it is conceived that subordinate members of the staff of city, town or ward offices may be assigned to suitable districts.

"With the abolition of the Chonaikai and Burakukai, the road will be open for the formation of free, voluntary organizations of the citizens for the satisfaction

of their various needs. The future of Japan lies in the development of individual initiative and free and flexible organizations. With the clearance of wartime totalitarian restrictions, the citizens are invited to rebuild Japan on the new foundation.

"The present measures have been taken to implement the democratization of the national system which is the fundamental principle of the new Constitution and the attention of every citizen of this country is called hereto."

Other statements were made in February and March. The abolition of the neighborhood association system naturally aroused apprehensions concerning the problem of staple food distribution--one of the many involuntary duties assigned to the Tonari Gumi during the war. It is recalled that the abolition move was opposed by certain interested groups which professed fear that disappearance of the neighborhood association system would jeopardize the distribution of rationed goods.

To dispel all apprehensions, the Agriculture and Forestry Ministry issued a statement explaining the new procedures on March 22, 1947. It was announced that beginning on April 1 staple food rations would be issued to individual consumers rather than through the Tonari Gumi. The statement emphasized, moreover, that ration distribution after April 1 would suit the convenience of the consumers, who could receive their rations at ration points any day during office hours after the ration was made available.

By this action office hours were extended to accommodate the people instead of the rationing officials. It was specifically provided, moreover, that it would no longer be necessary to secure approval of the chonaikaicho, burakukaicho, or any other official of the tonari gumi system prior to the issuance of rations. The obligation of members of a tonari gumi to secure rations for all families of a neighborhood association, a responsibility previously rotated among families, was completely abolished. The new regulations prohibited any requirement that the issuance of rations be made contingent on the formation of any unit or organization. They did not, however, forbid neighbors to pool their ration cards for the purpose of receiving ration distribution if it suited their convenience.

The Home Ministry, on March 30, issued a similar statement, describing the transfer of tonari gumi functions to local government agencies and measures to follow after April 1, 1947. This statement was widely published and was broadcast by radio.

The Law Concerning Local Autonomy specifically prohibits the delegation of administrative and financial affairs of government to private and quasi-governmental bodies or natural person.

Further steps to prevent use of neighborhood associations to control the daily life of the people were taken by the Government on May 3, 1947. This action was prompted by receipt of information that the outlawed associations (tonari gumi) and federations of associations (chonaikai and burakukai) were being revived as ostensibly voluntary organizations under old leadership. In Cabinet Order No. 15

the Government took the following measures to end such subterfuge:[4]

(1) All heads or assistant heads of chonaikai or burakukai who had held office consecutively from September 1, 1945 until September 1, 1946 were barred for four years from any municipal office performing similar functions in their districts.

(2) Such persons were prohibited from issuing any instructions to their former districts.

(3) Government officials were forbidden to issue instructions to neighborhood organizations or similar agencies or to demand presentation of certificates formerly issued by such agencies.

(4) All organizations formed since abolition of the chonaikai on January 22 and similar in function to the chonaikai, burakukai and tonari gumi were ordered to disband by May 31, 1947.

(5) Persons who failed to comply with these orders were liable to punishment by fine or imprisonment.

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[4] Appendix D: 5, Cabinet Order No. 15 re Tonari Gumi, May 3, 1947.

VIII. FINANCIAL REFORM.

1. Coordination. The existing local government finance system is based on the Local Tax Law of 1940 and the Local Allocation Tax Law passed in 1940. The former act authorized a number of taxes called "independent" taxes to be levied and collected by local entities. The latter provided for allocation of certain amounts from taxes collected by the central government to be transferred to the local entities. Both of these acts were amended in 1946 and again in 1947 to increase the amounts available to the local public bodies. These amendments brought temporary relief to the stringent financial situation of local governments but subsequent increases in prices and wages upset the original calculations.

Exercise of the powers and responsibilities given to local public bodies under the Law Concerning Local Autonomy will naturally require financial reorganization of an extensive character. In conjunction with the Economic and Scientific Section of General Headquarters the Local Government Division of the Government Section conducted field trips, conferences and discussions on the problem of local finances, and on the basis of these studies recommended the creation of a special committee responsible to the Diet to study the subject and recommend necessary legislation.

2. Local Finance Committee. On December 7, 1947, the Diet enacted the Local Finance Committee Law which created the Local Finance Committee of which the members are a Minister of State, acting as chairman, a member of the Diet, a representative of the Mayors' Congress, a representative of the Association of Towns and Villages and a representative of the Governors' Association.[5] The committee is assisted by a secretariat. Its life was set at one year from the date of promulgation of the law and it was instructed to prepare preliminary draft legislation for the Diet to consider within

[5] Appendix H: 27, Local Finance Committee Law, Law No. 155, Dec. 7, 1947.

three months from the date of promulgation of the law.

Article 2 of the law provides:

> "The Local Finance Committee shall prepare a comprehensive program for the effectuation of local financial autonomy consistent with the national public interest and local control over local responsibilities. Such plan shall include provisions for (1) assessment by and collection of taxes, (2) incurring of local indebtedness and bond issues, (3) budget, appropriation and audit procedures, and (4) equitable allocation of national funds for local purposes under local administration."

Within ninety days from the date of its creation the committee rendered a preliminary report in which it recommended amendments to existing tax laws which would result in the transfer to local entities of additional annual revenues of approximately 35 billion yen from admission taxes and monopoly revenues, and another 10 billion yen from new local tax sources, increases from present local tax sources and the creation of new local taxes.

Another recommendation of the committee was the creation of a Local Entity Central Bank and Deposit Fund to assist local public bodies in the solution of local financing problems. As of early June 1948, the recommendations of this committee had not been acted upon and the issue of local finances was attracting considerable attention in the press with indications that it had become a political issue. In general the role of General Headquarters in this program has been to encourage the Japanese to develop for themselves a program which would include the following elements: (1) the segregation and separation of tax sources for the national and the local government to attain as practical mutual exclusion as possible; (2) the finding of new sources of revenue by the local entities, and (3) the transfer of some existing sources of revenue to local governments, and (4) a reappraisal of the tax allocation, grants-in-aid and subsidy systems. At

the present stage it cannot be predicted how far the Diet will go in permitting the local public bodies to establish a sound financial system in keeping with their additional responsibilities.

IX. CONCLUSION.

The Significance of the Local Elections of April 1947. After the drafting of the Law Concerning Local Autonomy, the elections of April 1947 constituted the next logical and necessary step in the process of reorganization of local government, for the incoming officials would be the new functionaries to perform the new duties and assume the responsibilities provided in the new law. Henceforward, all chief executives of the local governments as well as all the representatives for the local assemblies would be popularly elected. On April 5, 1947, elections for all executives, governors, mayors and village and town headmen were held; and on April 30, elections for assemblymen of prefectures, cities, towns and villages took place.

These elections provided the Japanese People with their first opportunity in history to choose all their local chief executives by popular franchise: 46 governors, 209 city mayors, 10,210 heads of towns and villages, and 22 heads of the Tokyo autonomous wards. These elections, moreover, represented Japan's first elections for local assemblies on the basis of universal suffrage and the first election for local assemblies in which membership had been more than an honorary position. Voting in previous elections was based on limited manhood suffrage, with the consequent result that the assemblies normally represented only a restricted section of the Japanese population. Moreover, membership meant little in the way of legislative power, for assemblies met infrequently and were completely dominated by local chief executives. In effect, therefore, assemblies merely provided a fiction of popular participation in legislation.

The popular elections of 1947 marked a dramatic break from the past; both newspaper world and the voters were aware of their implications. The

newspaper Mainichi, for example, pointed out editorially that local governments constituted "the foundation of central government," that "democratic policies should be started in a small way," and that "the reconstruction of Japan will depend on how our prefectures, cities, towns, and villages rise from the ashes."

In another section of this history, the various technical and other aspects concerning the elections are analyzed in detail.* It is enough to observe here in conclusion that the local elections of 1947, based on universal suffrage, brought a new breath of life into the many communities of Japan. No greater or more effective start could have been made toward the functioning of democratic government in these local public bodies than through this extended free use of the franchise.

*. See Section : X "POPULAR ELECTIONS."