FINANCIAL CONTROL IN PARLIAMENT

Mr Ian HARRIS, President, *invited Mr Hafnaoui AMRANI, Secretary General of the National Council of Algeria, to the platform to open the debate on Financial control in Parliament.*

Mr Hafnaoui AMRANI (Algeria) opened by saying that the present sitting would concentrate on financial control by Parliament, and that this would be addressed as much from the point of view of relations between Parliament and the higher financial authorities of the state as on the point of view of the expertise and capacity within Parliament relating to budgetary and financial matters.

There were many aspects to this interesting subject, since the methods of surveillance and control of governmental action by Parliament varied according to the traditions and political and constitutional history of each country. In general terms, Parliaments voted on and supervised the administration of laws relating to State finances. In addition, most countries had specific institutions which had the duty of *a posteriori* control over the regularity of the application and use of public money.

Financial control by Parliament depended on several factors:

— The importance of the role of Parliament in voting and controlling the application of the budget;

— The status of institutions, charged with the verification of accounts and proper application of public money;

— The extent to which a particular regime is democratic.

The importance of control exercised by Parliament depended essentially on its influence on the preparation and voting of the state budget, but also on the human and legal resources which it possessed to oversee action by the Government.

For these reasons, this debate would permit the association to have a better idea of the way in which Parliament was able to exercise proper financial control over the Executive within our different institutional backgrounds.

Mme Hélène PONCEAU (France) *gave the following presentation on behalf of Mr Jean-Claude BÉCANE, Secretary General of the Senate of France, entitled: "The French Parliament's changing Role in the Financial Control of Government"*

The statutory instrument of January 2nd, 1959 for the constitutional law covering Finance Acts stipulates the terms and conditions for presenting, debating and enforcing Finance Acts (*Loi organique sur les lois de finances*, LOLF). It follows the logic of "rationalized Parliamentarism" of the Vth Republic which is marked by the wish to strictly organize Parliament's powers, especially in financial matters. This legislation which is a real "Financial Constitution" in France, was the subject of wide ranging reform in 2001 aimed at modernizing public financial management and giving the Parliament back its place in the budget procedure.

The "Financial Constitution" reform for France sought to reconcile two goals :

- The first goal is the modernization of public financial management by giving more freedom to managers by improving the decision-making and steering tools for the State's budget.
- The second goal is to rebalance powers in Parliament's favour, by strictly observing the Constitution and especially the Government's initiative in financial matters and the restriction on Parliament reducing the balance of the State budget.

The role of the French Parliament in budget matters and especially its finance committees will be reinforced within the scope of implementing the LOLF. The reform has already borne its first fruit, as the constitutional law's provisions concerning parliamentary information and audit have already come into force.

A. THE CHANGE FROM A CULTURE OF MEANS TO A CULTURE OF RESULTS

1. THE CURRENT BUDGETARY NOMENCLATURE HAS NUMEROUS DISADVANTAGES

The current nomenclature divides the credits between the ministries, six expenditure items (which apportion the expenditures in accordance with their nature : functioning, intervention, investment…) and 850 budgetary chapters (which apportion their expenditures in accordance with their use) which constitutes the budget's unity of speciality. This nomenclature does not give Parliament a clear view of the resources allocated to a public policy and above all does not allow the managers to easily adapt to constraints or to grasp the opportunities which may occur during the year.

2. THE NEW BUDGETARY NOMENCLATURE

The budgetary nomenclature set up by the LOLF is focused on the objectives and the evaluation of the results of public actions and gives managers greater freedom in managing the credits entrusted to them. From next year the vote on the budget will no longer be by ministry but by mission (47 in all, 10 of which are inter-ministerial), comprising a much smaller number of programmes (158 in all) compared to the current chapters and determined in accordance with the goals of the State's action. The managers are free to use the credits within the programmes, except for staff expenditure which cannot be increased during management.

This new definition of the voting unities and the speciality unities aims:

— to give greater freedom to managers through the specialization of credits by programme;

— to "quash" the negotiation of credits by ministry and to direct the debates towards objectives and the results of public policies, with the vote by mission.

3. THE SWITCH TO A CULTURE OF PERFORMANCE ASSESSMENT

The new nomenclature brought in by the LOLF stipulates that "precise objectives determined in accordance with general interest goals, and the expected results and which have been the subject of an assessment", will be associated with the programme.

The final settlement bill for year *n-1* will now be discussed before the finance bill for year *n+1*, and will be the time for managers to report to Parliament on the performance of their budget and the results of their management. The debate on the Settlement Act will therefore become a high point in parliamentary life and the opportunity for Parliament to learn the lessons from past management.

B. PARLIAMENT WILL HAVE MORE INFLUENCE OVER THE STATE BUDGET

1. A GREATER ABILITY TO MODIFY THE STATE BUDGET

The LOLF aims to restore more power at the budget authorization stage to Parliament.

From now on, each year, when the changes in the national economy and the orientation in the public finances are reported on and debated before the summer, Parliament can recommend modifications to the budget nomenclature and the objectives which are associated with it several months before the Finance Bill is presented.

In addition, Parliament can have more influence on the State budget during the debate on the Finance Bill. The right of the members of Parliament to amend will be enlarged: whereas they can only propose reductions in credits today, they can now present amendments aimed at modifying the apportionment of the credits between the programmes of the same mission, or even propose the creation of a new programme, when these propositions do not result in increasing the amount of the mission's credits.

2. A GREATER INVOLVEMENT IN MONITORING HOW THE BUDGET IS SPENT

The finance committees will be informed of all the measures aiming to modify how the credits are apportioned between programmes, the amount of which is limited. They will be consulted on cancellation of credits, and there will be a limit on carrying credits over from one year to the next.

C. A PARLIAMENT WHICH IS BETTER INFORMED AND BETTER ARMED TO AUDIT THE GOVERNMENT

1. MORE INFORMATION

The information which will be supplied to Parliament will be enriched so as to give overviews of the broad strategies of the public finance by:

— before the Summer, a report comprising a description of the broad strategies of its budgetary policy and a medium term assessment of its resources ;
— in the Autumn, a report tracing all of the obligatory deductions and their evolution ;
— a report in the appendix to the finance bill on the nation's position and its economic, social and financial outlook including "*the presentation of the assumptions, methods and projections which are the basis on which finance bill for the year is drawn up*" and the forecasts for changes in revenue and expenditure for at least the next four years.

Parliament will now be asked to vote on a ceiling for the evolution of the debt in the initial Finance Act in addition to the traditional vote on the level of the deficit. It will authorize borrowing and will vote on a ceiling of authorized appropriation. The authorization to collect existing taxes will be accompanied by documents which exhaustively detail all the taxes as well as the legal persons other than the State they may be earmarked for. The financial guarantees granted by the State will be authorized by Parliament. Lastly, the Finance Bill will have an unchanging structure to enable comparisons to be made from one year to the next and will have an investment section and a functioning section to establish whether, as unfortunately has been the case in France for several years, the State is becoming indebted to finance its normal operational expenditure.

2. Reformed Accounting

The State currently uses a cash basis of accounting which means that it knows its cash position in real time. However, this does not provide any useful information on its financial position.

The LOLF makes far reaching reforms of the State's accounting by adding the following to the cash basis of accounting:

— financial accounting based on the principle of recording rights and obligations. The rules here only differ from those applying to companies because of the specificities of the State's action;

— accounting which analyzes the cost of different actions in the programme.

This reform is essential because it will enable Parliament to know the State's financial health and not just its budgetary health. The State must enter provisions for its future expenditure and depreciate its equipment and members of Parliament will now be able to know the State's commitments, the risks to which it is exposed, and whether the State is getting richer or poorer.

This reform requires a considerable amount of work surveying and valuing the State's assets which is currently ongoing, as well as setting up a new financial information system. It is essential in order to allow Parliament to vote in an informed way on the great financial challenges facing the State.

The Court of Accounts will be responsible for certifying the State's accounts so that their accuracy is totally guaranteed.

3. Increased Auditing Powers

The LOLF consolidates and strengthens the powers of control of the finance committees in both assemblies which "*follow up and inspect the implementation of Finance Acts and assess any question concerning public finances*". These special powers include:

— the right for special reporters[1] to obtain "*all the financial and administrative information they request*", including reports from inspection bodies ;

— the possibility of compelling any person whose evidence appears to be necessary to submit to examination. The duty of professional secrecy does not apply to them.

1. Each member of the finance committee in the Senate is responsible for auditing a sector of the State's budget.

— the obligation for the government to reply to letters from the special reporters after their audit and assessment assignments have been completed.

Finally, the finance committees now receive assistance of the Court of Accounts to perform their audits. The Senate's Finance Committee asks it to perform four or five investigations each year and then holds a meeting during which the members of the Court of Accounts and the managers of the inspected organizations and departments are brought face to face. In addition, the finance committees can also benefit from its assistance to carry out assessment and audit assignments, especially when these require special technical skills.

The French Parliament and its finance committees therefore have considerable legal means, but the extent of their financial control will depend on how they are used."

Mr Paolo SANTOMAURO (Italy) *made the following contribution:*

"Article 81 of the Constitution of the Italian Republic lays down that the Chambers – the Senate and the Chamber of Deputies – must each year agree the budget and State accounts which are presented by the Government. All management by the public service must have as its authority this "Budget law". Only Parliament can authorise raising and spending money for the following year. The Constitution does not allow the Budget law to set new taxes or to settle new expenditure and any law which involves new charges or an increase of expenditure must indicate the resources which will be used.

From the 1980s it was thought that the budget law – because of its nature as a formal law and a pure and simple register of pre-existing legislative acts – was no longer an adequate instrument for management of public finances. Therefore, Parliament's intervention in the annual financial programme of the Government was separated into two documents: the first was the budget law and the second was the law on finance. The second law aimed to give form to the economic and social decisions of the Government and to put its programme into effect. The law on finance allows itchanges and additions to the legislative arrangements which affect the State budget and those of autonomous businesses or organisations which will are linked to the budget of the State.

The draft law on finances is presented by the Government to Parliament on the 30th of September each year and is debated with the draft budget for that year. With the draft law on the budget the three-year budget plan is also agreed.

The importance of the law on finance in the Parliamentary political life of Italy has grown enormously in the course of time since the 1980s. Parliamentary rules have taken account of this change and put into place specific procedural instruments for the examination and agreement of the law on finance. Examination of the law on finance takes place in the course of a special session, known as the "budgetary session", which involves both Assemblies of the Italian parliament, the Senate of the Republic and the Chamber of Deputies, which have identical powers and functions. Under the Constitution the Parliamentary system in Italy is a joint bicameral one. The budgetary session has a maximum time limit of 40 days for First Reading from when the budgetary documents are placed in the Senate (in the Chamber of Deputies the time limit is 45 days) and 35 days for Second Reading. During this period the Committees may not to any other work except those which are linked to the draft laws proposed under the law on finance. As an exception to this rule they may examine draft bills relating to the ratification of decrees, that is to say extraordinary and urgent measures which the Government agrees to while waiting for Parliamentary approval; is also possible to deal with matters or draft bills which the Conference of Presidents of the Parliamentary parties unanimously agree should not be deferred.

The budgetary session takes on average up three months of Parliamentary time, that is to say over a quarter of its total activity.

In the course last few years it has been decided that the debate on the law on finance should be preceded by the presentation of a document known as the "Document on Economic and Financial Planning" (DPEF). This document set a programme for the objective, and development of public finances for the following four years on the basis of the prevailing macro economic background. The Government sends the DPEF to both Chambers, before 30th of June each year, that is to say before the budget and the law on finance. Parliamentary debate finishes by agreement on a resolution which indicates the public finance objectives and the priorities for action in terms of the budget which will be brought into effect by the law on finance.

The Court of Accounts oversees the accounts of the State. Although this is a system of control which is outside Parliament, there is a particularly close institutional link between Parliament and the Court of Accounts and therefore this area of oversight is an important part of the scrutiny which is placed on the financial work of the Government.

The obligations which are placed on the Italian government in respect of its membership of the European Community have an important impact on the system of financial oversight. Parliamentary oversight includes respect for the Government's programme in delivering on its obligations as a member state which arise from agreements at the decision-making level of the European Union relating to coordination of financial affairs.

The impact of federalism on fiscal cooperation has taken on more and more importance. Since 2001, will after a constitutional reform of regions, provinces and communes have asked that supplementary resources be placed at their disposal, and this has created geographical units which play an increasingly important role in the public finances."

Mrs Roksa GEORGIEVSKA (Macedonia) *made the following contribution, entitled "Financial control in the Assembly of the Republic of Macedonia".*

Financial oversight in the Assembly of the Republic of Macedonia over Government expenditure.

Under the Constitution of the Republic of Macedonia which was agreed in 1991 the political and legal organisation of the State, the function of State bodies, their organisation and action, and all the relations between each other are based on the principle of the separation of powers. On that basis, the Constitution lays down separation of powers between the Legislative, Executive and Judiciary. Each one carries out its duties independently.

This division of power between the legislative, executive and judicial branches makes necessary a proper balance between each one of them and mutual oversight. It is therefore essential that the Legislature maintains oversight over the Executive. The procedures which have been laid down have been arranged in such a way that this aspect of Parliamentary activity is aimed at achieving its objectives of oversight in the most democratic way possible.

Financial oversight by the Assembly of the Republic of Macedonia over Government expenditure is carried out by way of amendments which are put down in the course of the debate on the budget – that is to say by proposed modifications of the budget of the Republic of Macedonia. On the basis of this procedure, which is set down in the Rules of the Assembly, the budget is proposed by the Government and debated once – as a draft budget.

Before the debate in the Assembly the budget is examined by the relevant bodies – the Committee on Finance and the Budget, the Chairman of which is elected by the opposition, and the Committee on Legislative and Legal Affairs of the Assembly of the Republic of Macedonia. The draft budget may also be examined by other relevant bodies of the Assembly within the limits of their powers.

Proposals to change the draft budget are presented in the form of amendments. These are sent to the Speaker of the Assembly in writing, and they must be justified and signed by the authors. If an amendment to the draft budget contains provisions which involve expenditure its author must indicate the possible means by which Finance can be obtained.

The Speaker of the Assembly immediately sends the amendments to Members of Parliament and the Government. He also will send it to the body which is charged with examining the budget and finances so that the Committee can judge the impact of the amendment on the available financial means and possible resources for financing the proposal. The Committee then informs the Assembly of its views. Debate will then take place on the amendment. An Amendment may be agreed to buy majority of votes of those deputies present, representing at least a third of elected Members.

The Assembly may decide to organise debate each chapter of the draft budget. Before deciding on how to vote on the budget, the Assembly will decide whether a vote will take place on each chapter or on the whole text. A vote on each chapter may be organised at the request of a Member of Parliament who is supported by at least 10 of his colleagues. The Rules of the Assembly relating to the procedure for agreeing the budget also apply to the procedure for agreeing the annual Table for balancing the budget.

The Minister of Finance decides on the division of expenditure in the course of a fiscal year, the level of actions and programmes within each departmental budget; division between the various departments is based on a decision by the Assembly – that is to say at the level of autonomous budgetary units – within the limits fixed by the budget.

Relations between the Assembly of the Republic of Macedonia and the Chief Financial Bodies of the State

Payment for Activities of the Assembly comes from its own budget, which is part of the global budget of the Republic of Macedonia. Financial oversight of the expenditure of the Assembly is ensured by the Ministry of Finance and the National Audit Office.

The Secretary General of the Assembly appoints an internal auditor in agreement with the Government. As a beneficiary of the public budget, the Assembly cannot take on financial obligations internally or make any payment without the signature of the internal auditor. If there is no internal auditor, the audit function is done by the Ministry of Finance. The Minister of Finance, with the previous agreement of the Government, selects auditors for a central internal audit. If an auditor detects irregularities in the use of money is allowed, he prepares a report and asks that the error be corrected within a certain time.

If such irregularities are not corrected the auditor instructs that no payments be made from the budget until this matter is dealt with.

The Ministry of Finance has set up a Treasury Department to deal with management of the budget. The Treasury Department the records all operations, receipts and expenditure, relating to the budget and its beneficiaries. In relation to all financial dealings of beneficiaries of the budget the Ministry keeps a register of all operations involving debits or credits on account of the Treasury Department. The Ministry manages the account of the Treasury Department and all its actions.

The National Audit Office has oversight of the use of money under the budget – including the budget of the as Assembly – from the point of view of compliance with the law. The Audit includes an evaluation of how efficiently money has been used.

Mr Jósef MIKOSA (Poland) *made the following contribution, entitled "The Relationship between Parliament and the highest state financial bodies in Poland".*

The subject will include discussion of the following topics:
— assistance given by the highest state financial bodies to parliamentary scrutiny of the Budget;
— availability of expertise in Parliament apart from the system for matters related to the Budget;
— specialist financial control within Parliament.

1. — The Constitution, which is the highest law in the Republic of Poland, sets forth basic principles of the relationship between the *Sejm* [lower chamber of Parliament] and the government in the field of public finances. Among other things it:
— specifies obligations of the government to the *Sejm* in submitting a Budget Bill and presenting a report on the implementation of the Budget Act;
— specifies obligations of the Supreme Chamber of Control [chief authority of state audit] in respect of the analysis of the implementation of the State Budget and of the purposes of monetary policy, as well as the opinion concerning the vote to accept the accounts for the preceding fiscal year presented by the Council of Ministers [discharge];
— specifies obligations of the Council for Monetary Policy, which is an organ of the National Bank of Poland, to the *Sejm* in formulating and presenting the aims of monetary policy and in submitting to the *Sejm* a report on achievement of the purposes of monetary policy;

— invests in the Council of Ministers exclusive right of initiative in relation to a Budget Act, an interim budget, amendments to the Budget Act, a statute on the contracting of public debt, as well as a statute granting financial guarantees by the State, and also limits *Sejm*'s discretion in changing spending and revenues from those planned by the Council of Ministers in such a way that the *Sejm* is not allowed to adopt of a budget deficit exceeding the level provided in the Budget Bill.
— imposes a prohibition against covering a budget deficit by way of contracting credit obligations to the State's central bank.

2. — Specifying more detailed principles is delegated by the Constitution to appropriate statutes, including particularly the Act on Public Finances, the Act on the Exercise of the Mandate of a Deputy or Senator and the Act on the Supreme Chamber of Control. As far as the above-mentioned topics for discussion are concerned, of importance are also its rules of procedure adopted by the *Sejm* by means of a resolution.

3. — Parliamentary scrutiny over public finances is exercised with the use of the following instruments: *Sejm* committees, Deputies' questions (written and oral) and interpellations. Pursuant to the existing provisions:
— Deputies are entitled to lodge interpellations and Deputies' questions and have a right to obtain from members of the Council of Ministers and the representatives of relevant agencies and institutions of State and local government, information and explanations related to matters arising from the performance of the duties of a Deputy.
— Members of the Council of Ministers and representatives of relevant agencies and institutions of State and local government, social institutions, establishments and enterprises of the State and local government, commercial companies with partnership of State or communal legal persons, are obliged to present information and explanations on request of permanent and special committees of the *Sejm* related to matters falling within the scope of their activity.
— The Chancellery of the *Sejm* performs organizational and technical as well as consultative tasks related to the activity of the *Sejm* and its organs. It provides adequate conditions to the Deputies for exercising their mandate and is obliged to render services for Deputies necessary for the performance of their duties. To this aim, it delivers reports and materials to the Deputies and enables them to take advantage of professional literature, analyses and expert reports.

4. — As concerns the above-mentioned tasks, they are performed by organizational units of the Chancellery of *Sejm*, acting within their scope of competence. They include in particular:

— the Bureau of Research, which provides legal consultancy and information to the Deputies and prepares - on request of Deputies and the *Sejm* organs - expert opinions and information on selected subjects. It carries out analysis of economic consequences of legislation adopted by the *Sejm* and research in the field of interest of Parliament. It prepares study and research papers along with expert reports relating to the adoption and implementation of the State Budget and provides assessment of monetary policy of the State and purposes of macroeconomic policy. It renders professional services to the State Finances Committee which is competent for matters of State Budget. *Sejm* committees have the ability to appoint their own advisers and utilize their expertise. The so-called Deputies' clubs, i.e. political groups within the *Sejm* [which do not belong to the structure of the *Sejm* bodies, but play important role in formulating the position of the *Sejm*], may also benefit from services of their own experts. Sometimes *Sejm* committees receive opinions from interest groups concerning particular matters under consideration in Parliament.

— the Legislative Bureau, which renders services for the State Finances Committee relating, inter alia, to the provision of opinion about a Budget Bill and Bureau of *Sejm* Committees which organizes – jointly with the Bureau of Research – cooperation with experts and advisors.

5. — There is no single unit (organ) within the *Sejm* responsible for control of State finances. However, the *Sejm* exercises its powers in this respect through the Supreme Chamber of Control [NIK] which – according to the Constitution – is the chief organ of state audit and is subordinate to the *Sejm*. The Supreme Chamber of Control audits the activity of the organs of government administration, the National Bank of Poland, State legal persons and other State organizational units regarding the legality, economic prudence, efficacy and diligence.

The Supreme Chamber of Control presents to the *Sejm* an analysis of the implementation of the State Budget and the purposes of monetary policy as well as information on the results of audits, conclusions and submissions specified by statute.

It is worth noting that the Act on the Supreme Chamber of Control provides that, it audits the above-mentioned units and investigates in particular the implementation of the State Budget and execution of laws and other legal acts with respect to the financial, economic and administrative activity of these units. It undertakes audits on the order of the *Sejm* or its organs, on request of the President of the Republic of Poland, the Prime Minister, or at his own initiative.

6. — The *Sejm* exercises its powers in the sphere of public finances at the stage of a Budget Bill, the stage of execution of the Budget Act and the stage of a report on its implementation.

— *The stage of a Budget Bill*

- The time limit for submission of a Budget Bill to the *Sejm* as well as its contents and justification is regulated by statutory provisions.
- Budget Bills and other financial plans of the State submitted to the *Sejm* are referred for consideration to the Public Finances Committee (the committee competent for budgetary matters) and individual parts of the drafts and reports are also considered by the appropriate ("sectoral") committees of the *Sejm*, which deliver statements of their position, including conclusions, opinions or proposals of amendments to the Public Finances Committee. The comments of the Supreme Chamber of Control on the reports are also referred to the appropriate *Sejm* committees considering particular sections of the reports. Moreover, the representatives of the Public Finances Committee also participate in sittings of the appropriate *Sejm* committees. The Public Finances Committee and "sectoral" committees may request additional opinions from the appropriate *Sejm* committees and may pose them questions.

— *The stage of implementation of the Budget Act*

- In the course of implementation of the Budget the Government is obliged to request the *Sejm* committee competent for budgetary matters for opinion on any change of the appropriations specified in the Budget Act (expenditures on investment and multi-annual programmes, earmarked reserves, as well as creating a new earmarked reserve in the event that the planned budgetary expenditures have been blocked), in such a situation the government is allowed to change the appropriation of an earmarked reserve after obtaining a positive opinion of the committee competent for budgetary matters. The government is also required to obtain a positive opinion of the committee competent for budgetary matters in the case of a threat to the execution of the Budgetary Act, resulting in the need for blocking of the expenditures. The committee competent for budgetary matters expresses opinion on a list of the expenditures that do not expire with the end of the budgetary year.

— *The stage of a report on implementation of the State Budget*

- As concerns reporting obligations, the Act on Public Finances specifies the scope of information to be presented to the *Sejm* by the Council of Ministers together with the report on implementation of the State budget and the time limit for such presentation. It also specifies the scope of information to be contained in the above-mentioned report and obliges the Minister of Finance to present to the *Sejm* committee competent for budget matters information on the course of execution of the state budget for the 1st half-year.

7. — Finally, it is worth noting that – apart from parliamentary supervision –internal audit is carried out in the units of the sector of public finances (including, inter alia, the Chancellery of the *Sejm*) which includes in particular: examination of accounting records and accounting book entries, appraisal of the system of collection of public resources and their use, as well as evaluation of asset management and evaluation of the effectiveness and economy of financial management.

Mr Christian AYER (Switzerland) said that the Federal Constitution of Switzerland laid down that Parliament had supreme budgetary authority, and that this conferred upon it a limitless right of amending texts which were put before it (except for related expenditure).

The draft budget was examined by the Committee on Finance, before being voted on by Parliament. On average, four months elapsed between presentation and agreement of the budget.

Since 1902 the question had been asked whether Switzerland should create a Court of Accounts similar to that that which existed in France or whether it was preferable to give Parliament the power to have oversight over public accounts.

In Switzerland there was also a Controle federal des finances, which was similar to the Inspection des finances in France, which was at the disposal of Parliament and the Government.

Dr Yogendra NARAIN (India) said that financial control was one of the most important functions of a Parliament. Therefore, the Indian Parliament had oversight of the Executive in matters of money and finance. This was covered in an obvious way by various provisions of the Constitution. Accordingly, under article 265, no tax could be raised or collected if it was not based on law. Under article 112, the President of India must lay an Annual Financial Statement in each House of Parliament which set out the estimated revenue and expense of the Government of India, usually known as the Budget. Article 266 of the Constitution provides for a Consolidated Fund of India, which received all the money collected by the Government.

Expenditure was included in the budget in so far as it covered the means necessary to pay for expenditure which the Constitution laid down must be made out of the Consolidated Fund of India and also in so far as other expenditure must be covered which it was proposed to take out of the Consolidated Fund of India. Supply could only be voted by the Lok Sabha. The Constitution also lay down that no money could be debited to the Consolidated Fund of India except under the Appropriation Act voted by Parliament.

The Budget was presented before Parliament in two parts: the Railway Budget relating to financing the railways and the General Budget. The Railway Budget was presented before the Lok Sabha by the Minister of Railways, but the General Budget was presented by the Minister of Finance. The Budget was presented with a "budget speech" which was one of the most important speeches in Parliament. A copy of the Budget was placed in the office of the Rajya Sabha at the end of the speech of the Ministry of Finance.

General debate on the Budget started after the presentation of the Budget in the following three or four days before both Houses. The President fixed the day and hour of the general debate before both Houses. The two Houses debated the general aspects of the fiscal and economic policies of the Government. The Ministry of Finance answered at the end of the budget debate.

Once the general debate on the Budget before both Houses had ended, the two Houses adjourned for a fixed period of time to allow the Department-related Standing Committees (DRSC) to examine the different departmental requests for money and to present their reports to both Houses of Parliament. The Committees did not deal with the day-to-day administration of the Departments. After presentation of the reports on the requests for finance from the various Departments, the Speaker of the Lok Sabha, after consulting the leaders of the party groups in the Lok Sabha, decided on dates and chose which of the requests for money which ministries had put forward should be sent for close examination and agreement by the House (Lok Sabha). The Rajya Sabha had a limited role in financial matters, since request for Supply was not discussed there. On the other hand, in the Rajya Sabha debate on the operation of certain ministries was organised on the basis of recommendations of the Business Advisory Committee.

Another means by which Parliament exercised oversight over finances was by way of the Cut Motion. These motions were aimed at reducing the credits asked for by the Government and might be on the basis of saving money (Economy Cut), or of a difference of opinion relating to policy (Policy Cut), or simply to express discontent (Token Cut).

Since no money could be taken out of the Consolidated Fund of India without the authority of Parliament, an Appropriation Act which covered all the demand for supply voted by the Lok Sabha and all the expenses to be debited to the Consolidated Fund was laid before the Lok Sabha. This Bill gave the legal authority to the Government to spend money from that moment from the Consolidated Fund. After the Lok Sabha had passed the Bill it was sent to the Rajya Sabha where it was debated and then sent back to the Lok Sabha.

In the same way, the Finance Bill, which included provisions of a fiscal nature, was laid before the Lok Sabha immediately after presentation of the Budget by the Ministry of Finance, agreed to by the House and sent to the Rajya Sabha. Since this was a Finance Bill, the Rajya Sabha might propose amendments but the Lok Sabha was free to accept or reject these. Debate on the Finance Bill allowed Members of Parliament to raise questions relating to the Government, particular complaints within Government responsibility, or matters to do with the monetary or financial policies of the Government. Once the Finance Bill was agreed by both Houses of Parliament it was sent to the President for assent.

The role of Department-related Standing Committees. — Parliament had set up Departmental-Related Standing Committees in 1993, in order to make the Government more answerable to Parliament and to make Parliamentary examination of the budget and public finances more detailed. The number of such Committees had recently been increased from 17 to 24 in order to broaden and deepen oversight of the Executive by Parliament.

The staff such Committee was experienced. These officials had acquired considerable expertise and experience as a result of having worked for long time for such Committees. It was the duty of the Secretary General to ensure that such Committees had competent officials who were experienced and efficient. Apart from the assistance of the Secretariat, the Committees also benefited from research staff who could carry out work on subjects which were examined by the Committees. It was also worth noting that in some such cases the Chairman or members of such Committees were former Ministers of Finance or formerly had held a portfolio in the economic sphere. Some of the members were also experienced in the economic or financial areas which allowed the Committees to carry out their oversight of finance and public expenditure very effectively.

The role of financial committees. — Apart from the Department-related Standing Committees there were three financial committees – the Public Accounts Committee, the Committee on Public Works and the Committee on Supply. The Public Accounts Committee and the Committee on Public Works each had 22 members, 15 from Lok Sabha and 7 from Rajya Sabha. The Committee on Supply had 30 members, all of which came from Lok Sabha. The Public Accounts Committee and the Committee on Public Works carried out *ex post facto* budgetary oversight. The Public Accounts

Committee mainly examined the use of money voted by the House for Government expenditure, in order to ensure that the money had been spent in the way authorised by Parliament and for the ends for which it had been voted. The Committee on Public Works examined the reports and accounts of public enterprises and ensured that, subject to the independence of such enterprises, their affairs were managed according to proper principles and prudent commercial practice. Another financial committee, known as the Committee on Supply, carried out a detailed examination of budgetary estimates each year in order to identify savings, improvements in organisation or administrative reforms which cohered with the policies which underlay the provisions and which are possible. The Committee proposed alternative policies in order to introduce efficiency and economy into the administration. It examined whether the money had been properly used within the policy framework that the provision of the money implies. It also suggested the form in which such provision should be presented to Parliament.

Role of the Comptroller and Auditor General. — In addition to the financial committees, the Comptroller and Auditor General of India, whose office was established by the Constitution, assisted Parliament in detecting financial irregularity and imposes on the Executive measures to correct faults. Reports of the Comptroller and Auditor General of India were sent to the President who laid them before Parliament. The audit reports of the Comptroller and Auditor General were automatically referred to the Public Accounts Committee. They formed the basis of inquiries of that Committee which in turn sent its report to Parliament.

In the summary, Parliament had developed a sophisticated mechanism and expertise to carry out oversight of financial questions and to ensure that public money was spent by the Government in a manner authorised by Parliament.

Mr Kasper HAHNDIEK (South Africa) said that voting on the budget was one of the essential prerogatives of Parliament.

In South Africa, the Finance Bill after it was laid before Parliament was immediately sent to the Committee on Finance, which had to publish its report within 10 days. The debate in the Chamber always resulted in a referral to Committee so that the Bill could be examined in detail.

Parliament did not yet have the right to amend Finance Bills. Nonetheless, its views and observations were taken into account within the framework of informal consultations in advance of the Bill being laid before Parliament.

The Government's budget plans in the medium-term, which were an important part of financial openness, were discussed by a particular Committee.

Mr Ibrahim SALIM (Nigeria) said Chapter 80-83 of the Nigerian Constitution of 1999 gave the power of allocation of the budget to the National Assembly. The "power of the purse", was at the heart of the principle of separation of powers, more generally known as a system of "checks and balances". This system guaranteed common action on an equal footing between the three branches of the State, namely the Legislative, the Executive and the Judiciary.

The executive power, which was exclusively responsible for the implementation of public policy, was forbidden to spend public money or to enter into obligations without the express authority of Parliament. Any departure from this, whether in relation to expenditure which was not authorised or the failure to spend authorised funds, or both, constituted a grave breach of the law.

The stages of agreement of the budget were as follows:

i. *Presentation*: the President sent the Finance Bill to Parliament usually presenting it in person during a joint meeting of the two Houses;

ii. *First Reading*: presentation of the Bill by the President of the Republic during the joint meeting of the two Houses was considered as the First Reading of the Bill;

iii. *Second Reading*: after the Finance Bill had been printed and distributed to Members of Parliament the Bill was made the subject of close debate based mainly on the priorities which it set out and the impact that they would have on Government action. At the end of the debate the Bill was referred to the Finance Committee in each House for close inquiry;

iv. *Finance Committee*: within the framework of the budgetary procedure, all the Standing Committees of each House were considered as Sub-Committees of their respective Finance Committees:

- Each Sub-Committee took oral evidence and prepared reports including requests to Government agencies to defend their policies;
- Contributions from pressure groups and the general public were requested in order to ensure the widest possible representation of views;
- On the basis of the above, the Sub-Committees presented their recommendations to the relevant Finance Committee;
- The Finance Committee of each House prepared a final draft budget which would be submitted to their respective House for examination and agreement.

v. *Appropriation Committee*: after the Report of the Finance Committee had been made, the Committee on the Rules and the Orders of the Day prepared a programme for examination of the Report:

- The recommendations of the Reports, including the compendium, must be distributed at least five days before the start of examination of the Report;
- This rule was designed to allow each Member of Parliament the opportunity and time to present observations and possible amendments;
- Such observations and amendments were sent to the Committee on the Rules and the Orders of the Day so that they could be examined during the meeting of the Appropriation Committee.

The Report, along with the amendments proposed, was examined during the time set by key Committee on the Rules and the Orders of the day, in close consultation with the Speaker. During the examination of the Report, the whole House became the Appropriation Committee instead of a Committee of the whole House – which was appropriate for Finance Bills. In such cases, the Speaker of the House presided as Chairman of the Committee.

vi. *Third Reading*: the Bill was agreed to by the House if the majority of Members thought that it corresponded with the resolution of the Appropriation Committee. The Bill was then sent to the other House.

vii. *Joint Finance Conference Committee*: if there were differences between the versions agreed to by the two Houses, a Joint Finance Conference Committee composed of equal member numbers of Members of the two Houses was established. Its task was to seek agreement on the differences and it had no other powers.

viii. *Promulgation*: the members of the Joint Finance Conference Committee reported to both Houses on the Bill. If the two Houses accepted their proposals, the Third Reading was repeated in order to agree the Bill. If one or other of the Houses refused, a joint meeting of the two Houses was arranged where the differences were decided by a vote on the basis of a simple majority. This last solution was usually avoided, particularly by the Senate, since this would allow the House of Representatives whose membership was larger (360 as against 109) to get its own way.

When the Bill was agreed by the two Houses or when it was agreed by a joint meeting of the two Houses of Parliament, it was sent to the

President of the Republic of Nigeria for assent. If the President signed the Bill, it became law.

ix. *Veto*: if the President refused to sign the Bill – or, in other words, if he used his veto – he could either communicate his objections or observations to the National Assembly or reject the Bill entirely within a period of 30 days.

If the President chose to send his observations to the National Assembly, Parliament re-examined the Bill and could take into account the observations of the President or keep the Bill as it had been previously agreed and return it for assent. If the National Assembly looked at the Bill again and returned it to the President for assent, whether or not it had taken into account his observations, the President had 30 days to think about and agree the Bill. If he refused his assent the National Assembly could re-examine the Bill and bring it into law by a simple majority of the members of both Houses meeting jointly.

Control of implementation of the Budget devolved to the Controller and Auditor General as well as the Public Accounts Committees of each House, which examined the expenditure of every ministerial department.

All the funds were consolidated into a single account — the Consolidated Revenue Fund, which could not be drawn on without the express authority of the National Assembly. In addition, the governors had to inform the National Assembly each month about movements of funds.

Thanks to all these proceedings, Parliament was kept up-to-date with how the budget was implemented.

Mr Khondker Fazlur RAHMAN (Bangladesh) said that one of the most important functions of a Parliament was to raise taxes and authorise expenditure. Article 83 of the Constitution of Bangladesh laid down therefore that no tax could be raised or collected except by authority of an Act of Parliament. In the same way, no expenditure could be engaged without its agreement. No financial provision agreed to by Parliament was justiciable.

Parliamentary control was both specific – for example, by way of examination and agreement of the Budget – as well as general – for example, by way of the network of Standing Committees

Generally, Parliament played no role in preparation of the Budget which was the sole responsibility of the Government. It was only after the Budget had been presented to the House that Members had the opportunity of debating the proposals which it contained.

Parliamentary procedure for agreeing the Budget was divided into five stages:

i. Presentation of the Budget;
ii. General debate on the Budget;
iii. Debate and vote on the requests for subventions and appropriations. Introduction of budgetary cuts motions: policy cut, economy cut and token cut;
iv. Introduction and agreement of the Appropriation Bill;
v. Agreement of the Finance Bill.

Parliamentary control of the Budget nonetheless was subject to a series of limitations: lack of time for proper examination; Constitutional limits to changing the Budget in Standing Committee; limits on the right to propose increase in expenditure; the rarity of the budget cuts available to Parliament; the almost systematic agreement of the financial proposals of the Government; the lack of debate or agreement of the budgetary cuts proposed by the Opposition; the overwhelming control of political parties of their members – which made their behaviour easily predictable.

Control of the Budget before it was agreed was basically by way of the Estimates Committee and the Public Undertakings Committee:

— The Estimates Committee could examine the provision for expenditure in the course of the budgetary year and make proposals for any changes which it had thought necessary. It could also suggest alternative policies in order to improve efficiency of administration and economic management of the funds.
  This examination nonetheless was subject to certain limits: requests for subventions could be accepted without the agreement of the Committee; its recommendations did not have to be followed; no Committee since independence had ever reported to the House; most organisations did not know the existence of the Committee; its meetings were infrequent.
— The Public Undertakings Committee examined the way in which public enterprises were managed according to the basic principles of management and prudent commercial practice. The Committee nonetheless could look at the basic policies of the Government in so far as they were different from the usual commercial approach and management or daily administration of public enterprises.
  The potential of this Committee unfortunately remained largely unexploited and its meetings were infrequent.

Control of the Budget after it was agreed was mainly by way of the Public Accounts Committee whose principal functions were:

— To ensure that funds spent were available and related to the services or the objectives on which they were being spent;
— To ensure that expenditure was within the authority given;

— To ensure that any application of funds to different objectives was made according to the rules of the competent authority.

The Comptroller and Auditor General was the principal source of expertise for the Public Accounts Committee. This Committee mainly examined the conclusions of the Reports laid by the Comptroller and Auditor General before Parliament and tried to examine the extent to which the means authorised by Parliament had been properly used by the different spending departments.

The principal limits on the examination by the Public Accounts Committee were the indifference of the Government to its recommendations, the lack of Parliamentary time for debating its Reports, the lack of depth in the Audit Reports by the Comptroller and Auditor General and excessive control by the Executive over this Officer.

In comparison to the two other financial committees, the Public Accounts Committee had succeeded better in meeting and reporting to the House frequently. The Public Accounts Committees which had been established in the course of the seventh and eighth Parliament had seemed to succeed in affecting the behaviour of various recalcitrant officials and agencies, at least to some extent. In accordance with their recommendations, significant sums had been recovered by the Treasury and the Comptroller and Auditor General had been the originator of several important reforms – including the introduction of a performance audit in place of a simple fiscal audit. The Estimates Committee which had a better potential for guaranteeing fiscal discipline and proper expenditure remained the least active of the three financial committees.

It was desirable to reinforce the role of Parliament in examination of expenditure provisions before the Budget was agreed to, which could be brought about by amendment of the Rules of Procedure of Parliament and by:

— Ending of the current provision which prevented the Budget, the Finance Bill and the Appropriation Bill from being sent to committees for examination;
— Asking the Government to seek agreement of the Public Accounts Committee before introducing any correction to the Budget;
— Asking the different committees to publish their Reports within a specified time limit;
— Setting a time limit for the Government to reply to the recommendations made by the different committees;
— Asking the different committees to submit Action Taken Reports to the House which would inform Members of the progress made in implementing decisions by the responsible ministers;

— Associating more closely the Standing Committees on Ministries with the Parliamentary financial procedure;
— In making the Comptroller and Auditor General an Officer of Parliament.

Mr Willem de Beaufort (Netherlands) said that the right to vote on taxation and on public expenditure was a basic part of Parliament's functions.

The Dutch budgetary procedure was relatively rigid, since debate had to end at the latest by the first of December – this meant that the most important ministerial budgets had to be examined in September or October.

Speaking time was limited, since it was divided up between the political parties in proportion to their membership and each party was free to divide up speaking time between their members as they saw fit. The general framework was decided in September and agreed to by all the parties.

By custom, any amendment which involved an increase in expenditure had to be accompanied by an increase in receipts to cover it.

A specialist service made up of experts in financial and budgetary affairs had the responsibility of examining the Budget. Its conclusions often had important political consequences.

It was worth mentioning one problem within the framework of thinking about rationalising budgetary procedure: the proposal of the Bureau that budgetary debate should take place in Committee and that only the vote should take place in plenary session had been disagreed with.

Ms Helen DINGANI (Zimbabwe) asked what the origin of the practice was, which was commonly shared, which precluded Parliaments from changing – and in particular increasing – supply to ministerial departments.

Mr Jun Ha SUNG (Republic of Korea) said that the supreme financial authority of the State in Korea was the Minister of Budget and Planning. Once the Budget was presented, the National Assembly examined it and voted on it. In other words, although the administration presented the budgetary programme, it was the Assembly which voted on it before it could be put into effect. Furthermore, the Assembly had the right to reduce the Budget, but it needed the agreement of the Government to increase it.

As far as control of the expenditure of the State was concerned, the National Assembly of Korea had an Office of the Budget, which brought expertise in lawmaking and in budgetary policy. This Office had been established to evaluate and scrutinise government expenditure, but it also assisted legislators in examination of the Budget by providing economic forecasts, evaluation of government plans, analysis of budget, and an estimate of the budgetary requirements of projects which are put before the Assembly.

The Assembly also had established a system for close examination. Once the draft Budget had been laid before the Assembly it was sent to the Office of the Budget for analysis and then it was transferred to the relevant Committee for a First Reading. The draft Budget then preceded through a complex procedure up to the Committee on the Budget and Accounts, before finally being placed on the Orders of the Day for the plenary sitting.

The Assembly had also established an Early Accounts System in order to establish the link between Bills and the budgetary proposals: by finishing the settlement of accounts before beginning discussion of the budget the National Assembly aimed to incorporate the results of their work in the budgetary provision for the following year. In addition, the Assembly recommended to elected Members that they present their draft Bills outside the budgetary session in order to allow the Assembly to concentrate on financial questions during that period.

Finally, the National Assembly estimated the cost of Bills as a way of improving the efficiency of public expenditure and avoiding an excessive charge on public funds through an analysis of their budgetary impact.

Mr Roger Sands (United Kingdom) replying to the question from Ms Helen DINGANI, said that this practice probably had its origin in history. Originally, in the United Kingdom, the principal function of Parliament was to grant to the monarchy the means to carry out his policies: it would be absurd to give the King more than he demanded! This principle had been handed down to all the countries of the Commonwealth.

At the present time, ministers carried out the tasks which previously had been those of the King: because they are the only ones who were accountable for their content and implementation, they were also the only ones to be able to ask for a significant change in money granted.

Mr Ibrahim SALIM (Nigeria) said similar rule existed in Nigeria – although this in practice had been weakened by the informal negotiations in advance of the budget.

Mr Ano PALA (Papua New Guinea) said that in New Guinea the budget was presented in November.

The ministerial departments presented their estimates in September and the monies voted were divided into three equal parts between the three branches of the Government.

Mr Moses NDJARAKANA (Namibia) asked whether any examples were known whether the Government could depart from the law voted by Parliament and, for example, change a budgetary allocation without going back to Parliament.

Mr Roger SANDS (United Kingdom) said that in the United Kingdom it was forbidden for the Government to reallocate money from one budgetary head to another.

Dr Hafnaoui AMRANI (Algeria) said that in Algeria the law on finance presented in September was at first debated in Committee. Each minister presented an account and described his plans before the relevant Committee before debate in the plenary.

Oversight of the Government was carried out in the form of written or oral questions or indeed by the creation of Committees of Inquiry.

Drawing the debate to a close, he said that the discussion had shown the value of diversity in history and the different methods of Parliaments, which had made possible an interesting international comparison.

Mr Ian HARRIS, President, *thanked Mr Hafnaoui AMRANI and all the other members who had contributed to the debate.*