The Constitution provides that there shall be a Comptroller and Auditor General of India who shall be appointed by the President by warrant under his hand and seal and shall not be removable from office except on an Address by the two Houses of Parliament for removal on the ground of proved misbehaviour or incapacity. The Constitution also provides that the Comptroller and Auditor General, after ceasing to hold that office, shall not be eligible for re-appointment in any capacity either by the Union or by the State Government and that the administrative expenses of his office, including all salaries, allowances and pensions payable to or in respect of persons serving in that office, shall be charged upon the Consolidated Fund of India. The object of these provisions is to secure the independence of the Comptroller and Auditor General from executive control so that he can discharge his duties without fear or favour.

Duties of the Comptroller and Auditor General

The duties of the Comptroller and Auditor General

1 Art. 148
2 ibid.
as prescribed by the Constitution are:

1. to prescribe, with the approval of the President, the form in which the accounts of the Union and of the States are to be kept;

2. to perform such duties and exercise such powers in relation to the accounts of the Union and the States and of any other body or authority as may be prescribed by any law made by Parliament; and

3. to report to the President or to the Governors of the States on the accounts of the Union or the States as the case may be.

Article 149 further prescribes that until law as aforesaid is made by Parliament, the Comptroller and Auditor General is to perform such duties and exercise such powers as the Auditor General of India was doing immediately before the commencement of the Constitution in relation to the accounts of the Dominion of India and of the Provinces.

No law has yet been passed by the Parliament and the Comptroller and Auditor General is exercising his powers as heretofore which were prescribed by the Audit and Accounts Order, 1936, and the Initial and Subsidiary Accounts Rules made by the Governor-General under that order.

3 Arts. 149, 150, 151.
The Constitution has further provided in Article 279(1) that the Comptroller and Auditor General is to ascertain and certify the net proceeds of any tax or duty mentioned in Chapter I of Part XII of the Constitution or of any part of such tax or duty, in or attributable to any area.

The Comptroller and Auditor General is authorised as above mentioned, to prescribe with the approval of the President the form in which the accounts of the Union and the States are to be kept. It appears to have been accepted that the power to prescribe the form includes the power to give any direction with regard to the methods or principles in accordance with which any accounts are to be kept. Under this power the Comptroller and Auditor General has prescribed a uniform form of accounts for the Union and the States.

The Comptroller and Auditor General is in pursuance of the Audit and Accounts Order, 1936, continuing to be responsible for the keeping of accounts of the Union and
the States except the accounts relating to Defence and to Railways and accounts relating to transactions in the United Kingdom. There is however a proposal for the separation of Accounts from Audit. The proposal is being given a trial on an experimental basis in some of the departments of both the Union and the States. The Comptroller is, however, relieved of keeping the initial accounts in the treasuries and departmental offices. The treasurers and these officers are liable to render accounts to the Comptroller and Auditor General in such form as he may prescribe and consequently it is the Comptroller and Auditor General who prescribes the form in which initial accounts are to be kept.

Duties and Powers of the Comptroller and Auditor General in regard to Audit

Paragraph 13 of the Audit and Accounts Order, 1936, as adapted, contains the fundamental provisions relating to audit, and runs as follows:

'13.(1) It shall be the duty of the Auditor General:
(1) to audit all expenditure from the revenue of the Dominion and of the Provinces and to ascertain whether moneys shown in the accounts as having been disbursed were legally available for and applicable to the service or purpose to which they have been applied or charged and whether the expenditure conforms to the authority which governs it;
5.

(ii) to audit all transactions of the Dominion and of the Provinces relating to debt, deposits, sinking funds, advances, suspense accounts and remittance business;

(iii) to audit all trading, manufacturing and profit and loss accounts and balance sheets kept by order of the Governor-General or of the Governor of a Province in any department of the Dominion or of the Province; and in each case to report on the expenditure, transactions or accounts so audited by him.

42) The Auditor General may with the approval of, and shall if so required by, the Governor-General or the Governor of any Province audit and report on:

(i) the receipts of any department of the Dominion or as the case may be, of the Province;

(ii) the accounts of stores and stock kept in any office or department of the Dominion or, as the case may be, of the Province.

The Governor-General or the Governor of a Province may after consultation with the Auditor General make regulations with respect to the conduct of audits under this sub-paragraph.

The phraseology employed in clause (1) of the paragraph of the Audit and Accounts Order, quoted above, follows closely the wording of the Exchequer and Audit Department Act of the United Kingdom, the duty of the Audit Department being stated as being the duty of auditing certain
specified accounts and of reporting upon them. No attempt has, however, been made to define 'audit' itself. For such definition might limit the authority and discretion which the Audit Department ought rightly to exercise.

Report of the Comptroller and Auditor General

Article 151 of the Constitution prescribes that the Report of the Comptroller and Auditor General relating to the accounts of the Union and each State shall be presented to the President or the Governor of the State as the case may be. The duty of making a report is, however, imposed on him by the Audit and Accounts Order, 1936, which contemplates a report on the expenditure, transactions and accounts audited by him. The Reports so made along with the account of the Union or the States, as the case may be, have to be laid before the respective Legislatures. It is on the basis of these reports that the Public Accounts Committees scrutinize the accounts.

The Reports and the Accounts are made in two parts, the Finance Accounts and the Appropriation Accounts. The Finance Accounts show the accounts of actual receipt and expenditure during the year; and the Appropriation Accounts show the appropriation of the money granted by the Legislature to the various grants and heads of expenditure, i.e., whether the money granted for the specific purposes has been spent for those purposes or not and whether there is
a surplus of an excess expenditure over the amount granted.

It will have been seen that the Comptroller and Auditor Generals' duties and powers cover both the audit and accounting of all the financial transactions of the Union and the States. In the matter of accounting, his responsibilities are well defined and conform to the traditional functions of an accountant, except that the form in which the accounts of the Union and the States are to be maintained is prescribed by him with the approval of the President.

As an auditor, his functions and authority are wider and more comprehensive than those exercised by professional auditors. A public auditor, responsible for the audit of commercial enterprises, is primarily concerned with the certification of the Profit and Loss Account and the Balance Sheet. For this purpose, he undertakes the audit of vouchers, cash book and other related books and documents. So long as any expenditure incurred is covered by a sanction of the appropriate authority and so long as it does not contravene the provisions of the Company Law, he is precluded from commenting on the propriety of the sanction or on the discretion by these authorities. Quite apart from these legal limitations, he may also be influenced in his work by the fact that his appointment is made annually by the board of directors and any expression of opinion which comes into conflict with the board may jeopardize his continuance as the auditor of the concern.
8.

Audit by the Comptroller and Auditor General is not restricted by any such limitations. He is free to bring to the notice of Parliament (respective State Legislature in respect of States) the impropriety of any executive action, even when its legality is not in question. Nor his continuance in office depends on the will or convenience of the administration. The special provisions incorporated in the Constitution do not merely underline his position as a servant of the people; they also endow him with appropriate authority in that conception to review the financial administration of the country as a whole.4

Audit of Appropriation Accounts

The audit of appropriation accounts involves scrutiny from different points of view. These may be summed up as, (1) audit from the point of view of accountancy, (2) audit from the point of view of classification, (3) audit from the point of view of authority and (4) audit from the point of view of propriety.

Audit of Accountancy

With regard to audit from the point of view of accountancy, the auditor of public accounts has to perform

4 See Chanda - Indian Administration, pp. 245-46.
the same duties as an auditor of private commercial accounts. The object is to be satisfied as to the accuracy and completeness of accounts, to see that all revenue and receipts collected are brought to account under the proper head, that all expenditure and disbursements are authorised, vouched and correctly classified and that the final account represents a complete and true statement of the financial transactions it purports to exhibit. Fraud and technical errors are also to be checked and detected. Part of the work in connection with scrutiny of expenditure is entrusted, for the sake of convenience and economy, to the officers of the spending departments. In such cases, as well as in cases of disbursements made by officers of departments other than the Indian Audit and Accounts Department, the audit officer has to rely upon or accept certificates furnished by the spending departments. Cases of suppression of expenditure are against the interest of the spending authorities but there may be cases of fraud either by way of payments being made to payees not legally entitled or claims being entertained which are not in accordance with facts. On the receipt side too, it is not possible for the auditor to be by the side of the men receiving cash and thus to ascertain that in every instance the amount payable to the Government has actually been recovered or to state that all persons liable at law have been duly charged. The audit officer has necessarily to accept and
rely upon departmental returns and the documents accompanying them. A thorough audit in respect of all items both on the receipt side and the payment side is impracticable with the limited establishment of the audit office. It is also not incumbent upon audit to conduct a thorough wholesale audit. Recently, however, the Union Government and some of the State Governments have required thorough audit of receipts under some specified tax heads.

So far as the detection of fraud is concerned most of the frauds are checked and detected in the course of scrutiny by executive officers. The audit officers render valuable assistance in indicating directly or indirectly to the executive officers defects or irregularities which require their attention. The checks prescribed in the financial rules and treasury rules for the executive officers, supplemented by occasional local audit by the officers of the Audit Departments and continuous central audit, sufficiently provide for the detection of fraud.

The number of technical errors detected in the course of scrutiny is considerable and the defects are remedied by reference to the spending departments by way of audit objections.

In commercial accounts, cases of errors of principle are also detected in the course of audit. In Government audit there is little scope for detection of such errors of principle in the system of accounts adopted. This is because the responsibility for the determination of or advice
as to the form in which accounts should be kept devolve upon
the Comptroller and Auditor General himself.

The Government audit in India is continuous and as far
as possible proceeds pari passu with cash transactions. It
does not wait till the year is over and the accounts of the
year are completed. It is also prompt. Although all
transactions of public moneys are not thoroughly audited, the
system of financial administration requires the executive
to lay down rules, regulations and procedures sufficient to
secure a proper and effective check upon the due assessment
and collection of revenue and payment of dues from the
Government, and in the test-audits the auditor must satisfy
himself that there are such rules, regulations and procedures
and these have been enforced by the department. Results
of such tests are communicated to the departments concerned
and also included in the Reports on the appropriation accounts.

Besides cases of fraud detected in the course of audit,
all cases of loss of revenue, whether by way of remission by
competent authority on the ground of irrecoverability or
otherwise, as also cases of writing off of losses by competent
authorities, are included in the report so that the House is
apprised of the actual position. It is incumbent upon the
departments to notify to the Audit all cases in which payments
have been waived or claims abandoned or losses written off
so that the Audit may incorporate the facts with its views in
the Audit Report.
Audit of Authority

'Closely allied to appropriation audit, and necessarily bound up with it, is the audit of authority or administrative audit: the examination of expenditure with a view to seeing that it is supported by the requisite authority in each case.'\(^5\) The Audit and Accounts Order makes it incumbent upon the Comptroller and Auditor General to ascertain whether the expenditure conforms to the authority which governs it. The House appropriates the grants, but the expenditure even though made on the service for which it is appropriated, is not valid unless incurred under proper authority. The provision made by Parliament (Legislature) for a service detailed in the estimates is not in itself any authority for carrying out that service, if it is a service for which treasury authority is required. The audit of authority is therefore an important function of the Comptroller and Auditor General, and it is his duty to report to the House any unauthorised expenditure for which treasury sanction is unobtainable; and he would normally recommend it for disallowance, but in special circumstances he would use his discretion as to admitting charges which are unauthorised, subject to the review of the Public Accounts Committee, whose attention would be drawn to them in his report.'\(^6\)

\(^5\) Durell, p. 186.
\(^6\) Ibid., p. 188; Chubb, *Control of Public Expenditure*, pp. 58-9.
The Constitution is the basis of all audit and all authorities. It is the duty of Audit to see and satisfy itself that all expenditure incurred should conform to the relevant provisions of the Constitution and of the laws made thereunder and should also be in accordance with the financial rules and regulations framed by competent authority and that there should exist sanction, either special or general, accorded by competent authority authorising the expenditure. In conducting the audit in respect of the audit of authority, the auditor performs quasi-judicial functions, in that he has to apply the rules and orders as they stand irrespective of the position of the person against whom they are enforced. He may not relax or waive the rules, except where he is specially empowered to do so.7

In order to enable this audit of authority to be properly conducted, it is essential that regulations should be as explicit as possible. Anything like a wide discretion renders the action of the audit department nugatory, and the Public Accounts Committee deprecates the insertion in regulations of warrants (Orders) of such phrases "as a rule"; such a limitation obviously does not extend to the delegation of power to be exercised in special cases, for it is impossible to legislate in advance for every case that may arise. For audit purposes it is essential that the regulations

7 Introduction to the Indian Government Accounts and Audit
should make it clear who the approving authority is and the limit of his powers. The discretion is then specially defined, and the exercise of it is a matter of administration. ¹¹

The result of the audit of authority on the cases where expenditure has been incurred without the approval of the competent authority together with the cases of excesses in sub-heads as a result of such expenditure should be included in the Audit Report for the attention of the Public Accounts Committee and of the House.

Audit of Appropriation

The most important part of the obligatory audit is the audit of appropriation. It is incumbent upon the Auditor to see that the grants are spent for the purpose for which they are provided. 'The appropriation of the grants to specific purposes is the expression of the will of Parliament, which becomes law on the passing of the Appropriation Act. Deviations therefrom consequently diminish parliamentary control, even though specifically legislated for in certain cases, because Parliament can only be able to give an *ex post facto* sanction to them. The strictness with which appropriation is applied is the measure of parliamentary control. No grants may be

⁸ Durell, p. 188; Chubb, *Control of Public Expenditure*, p. 53, footnote.
exceeded without fresh parliamentary authority accorded by a supplementary estimate or an excess grant, except in those special cases in which the Treasury (Finance Ministry/Department) is empowered to exercise, temporarily, modified powers of virement (re-appropriation), subject to final approval by the House. They money must be spent within the time for which it was granted, and no sums are chargeable against the grants which do not actually come in course of payment within the financial year, a natural sequence of this condition being that any unspent surplus must be surrendered. Every amount charged in the account must be supported by proof of payment, the Comptroller and Auditor General being the sole judge of the sufficiency of evidence of payment.\(^9\)

The importance of the appropriation audit does not permit a test audit to be substituted for a thorough audit. It must be a detailed and complete audit. Every payment is checked into the books to its right head of service so as to secure that the intentions of the House are duly carried. These intentions are expressed in the estimates as finally granted. The estimates consequently form the basis for the appropriation audit.\(^10\) The audit functions, however, vary with different parts of the

\(^9\) Durell, p. 182-3; Higgs, Financial System of the United Kingdom, p. 73.

\(^10\) ibid., pp. 183-4.
estimates. The appropriations specifying the total amount voted for each grant are the primary concern. The major heads of account come next in order of importance and next come the minor heads and sub-heads and last come the detailed heads. The Comptroller and Auditor General holds and always has held that the estimates (including the parts) are before him as a whole; that although they are divided into three parts, still inasmuch as Parliament grants the money upon the understanding that it is going to be spent in that manner, the department presenting those estimates to Parliament cannot repudiate the responsibility for the divisions under which it presents them, and upon faith of which Parliament grants the money. Therefore, the Comptroller and Auditor General holds that the estimates are before him as a whole; that he is entitled if he thinks proper to question any deviation from estimates as shown by the figures giving details of expenditure. The audit records expenditure against the appropriation grant and the respective head. Expenditure that exceeds the grant or appropriation or does not seem to fall within its scope is treated as unauthorised expenditure unless regularised by further provisions. Hence in the appropriate audit, the audit of provision of fund and the audit of classification are two essential factors. With these

11 Durell, p. 184.
are closely connected the form of the estimates, the form of the accounts and the authority of classification. Durell says,12 'Considerations connected with the form of the estimates affect the Comptroller and Auditor General to a limited extent since they form the basis of the form of accounts with which they are closely bound up.' The authority for the form of the estimates is derived from the Procedure Rules of the respective Legislature and it is left to the Finance Ministry/Department to prescribe the form with such suggestions as the Estimates Committee may offer; the authority for the form of the accounts is derived from Article 150 of the Constitution and the form is left to the Auditor General to be prescribed; the ultimate authority for classification rests with the executive in consultation with the Auditor General, under the Audit and Accounts Order. In matters of classification, the executive is the final authority; audit however has the right to criticise the validity of any such classification which is inconsistent with the budget provisions or makes the accounts an incorrect or misleading representation of facts. 'Having regard to all these, the Comptroller and Auditor General in his dual

12 Durell, p. 186.
capacity as keeping and as auditing the accounts of Government is responsible for securing that entry of financial transactions in the accounts conforms to such forms and directions.\(^{13}\)

It must also be remembered that under the provisions of the Constitution,\(^{14}\) the expenditure charged upon the consolidated fund should be shown distinct from those voted and also that expenditure on revenue account should be shown distinguished from capital expenditure. 'It is, therefore, an important function of Audit to verify that no expenditure is classified as "charged on the Consolidated Fund" except in accordance with the terms of the Constitution and conversely that no expenditure is classified as voted which should be "charged".\(^{15}\) In the matter of classification of expenditure allocation between capital and revenue is very important, as otherwise the financial picture will be entirely misleading. 'It should be borne in mind that the decision whether expenditure shall be met from current revenues or from borrowed moneys rests with the executive subject to the approval of the Legislature. It is, however, the duty of Audit to bring

13 Audit Code.
15 Audit Code.
to notice occasions on which the classification of expenditure between revenue and capital or its distribution between current revenues or loan funds appears to be contrary to the dictates of sound and prudent financial administration. The financial and accounting conception of capital expenditure is imported from commercial theory and practice and an essential feature is that expenditure of a capital nature is not met from the revenue or profits of a concern. The essential purpose of the opening of Capital heads of account is to facilitate the exhibition of financial results of any special undertaking on the basis of generally accepted commercial principles or in some more simple conventional manner, either that the cost of a service may be ascertained or that the full financial implication of any policy may be made clear.资本 expenditure may also be financed from revenue accounts when so decided by the executive but that too should be properly recorded. The purpose of recording capital expenditure within the Revenue Account as separate and distinct from revenue expenditure is almost always to enable accounts to be prepared according to commercial principles.

With regard to audit of accounts of transactions pertaining to Reserves or Reserve Funds it may be stated that any device of rendering grants non-lapsing by

16 Audit Code.
withdrawng amounts to a fund is contrary to the strict theory of Parliamentary financial control. But if such a course is adopted with the cognizance and approval of the Legislature, the audit should classify such accounts having regard to the procedure followed in budgeting for these transactions and the principles specially enunciated for the purpose. 17

Audit of Propriety

From the point of view of regularity, an expenditure may be in order when it satisfies all the foregoing tests, namely, that it is a properly vouched expenditure, sanctioned by a competent authority, the sundry rules being duly observed both by the disbursing and the sanctioning officers and it is met from the allotment of funds provided for in the estimates passed by the Legislature and recorded under the relevant head of account. In spite of all such formalities being regularly observed, there may be cases of expenditure involving extravagance or waste. Such expenditure may be termed as improper expenditure. Similarly there may be improper waste of stores. Principles of sound financial administration warrant a review of the expenditure from this point of view and audit being an instrument of

17 Audit Code.
financial control it devolves on audit to call the attention of the House to all such cases of extravagance and waste. But the functions of the Comptroller and Auditor General in this regard have not been precisely defined. According to Durell, such functions of the Comptroller and Auditor General fall within the range of the 'discretionary review' and the limits of such review are governed more by usage and precedent than by enactment. This practice of drawing attention to cases of extravagance is a good instance of a development of procedure arising out of the system provided by Parliament, but not specially legislated for. The Comptroller and Auditor General may be required to investigate the methods of expenditure involved in the consideration of the purpose thereof and therefore to investigate the questions of extravagance and is also required to report on the accounts. The words "report on the accounts" probably do not legally confer a right to point out such cases to the Public Accounts Committee; but the practice is recognized by all departments, and no department has ever complained of attention being drawn to questionable expenditure even when regularly vouched.

This accepted view of the practice which has grown up is a wise one in the interests of national finance, if not carried too far. If, however, the Comptroller and the Auditor General were to set up as the

18 Durell, p. 192; Chubb, Control of Public Expenditure, p. 61
19 ibid.
central authority for reviewing expenditure generally, and its necessity, it would create friction, and in the end do more harm than good. If he reports on a matter of administration from the point of view of its effects on the public purse, it will be for the purpose of bringing before Parliament something which would otherwise pass unnoticed. It is impossible to deny that it is always his right, and will often be his duty, to take this step; but it is equally obvious that the occasion and manner of such report must be matters of discretion. The success of the practice, and its consequently beneficial results, are due to the moderation and tact with which it has hitherto been applied. 20

It is thus obvious that in this field of discretionary review the duties of an Audit Officer cannot be regulated by laying down precise rules. The Auditor General's rules made under the Government of India Act, 1919, laid down some 'canons of financial propriety'. 'There are no such statutory canons now and hence audit may challenge an expenditure — otherwise regular, not on the basis of any such canon but as transgressing a universally accepted standard of official conduct or financial administration.' 21

20 Chubb, Control of Public Expenditure, P. 61.
21 Pinto, System of Financial Administration in India, p. 264.
Powers and duties of the Comptroller and Auditor General in relation to autonomous corporations

As already observed, a new form of undertakings affecting parliamentary control of finance has recently come into existence, viz., State-owned or State-controlled corporations or companies. These enterprises are either registered as companies under the Company Law or incorporated as Corporations by special legislation.

The Company Law defines 'a Government Company' as a company in which not less than fifty-one per cent of the share capital is held by one or more Governments, in India. The law provides that in respect of such a company the appointment of an auditor shall be made on the advice of the Comptroller and Auditor General who shall have power to direct the manner in which the company's accounts shall be audited and also to give instructions to the auditor so appointed in any matter relating to the audit of the said accounts. The Comptroller and Auditor General shall also have power to have a supplementary or test audit of the accounts done by any person authorised by him and have the right to comment upon or supplement the report of audit made by the auditor so appointed. These
are laid before the Parliament and the State Legislatures concerned under the Company Law.

So far as the Corporations incorporated by ad-hoc statutes are concerned, whether or not the Comptroller and Auditor General shall have any function in regard to them is governed by the provisions of the respective statutes creating the bodies. There are different categories of such bodies. In some cases, e.g. the Reserve Bank of India, the State Bank of India and the Life Insurance Corporation of India, the finances and the accounts are outside the purview of the Comptroller and Auditor General. In some other cases, e.g. the Damodar Valley Corporation the Comptroller and Auditor-General has the same relation as he has in connection with the examination of the accounts of a Government.