A sound control over public finance is not and cannot be a discontinuous process. The ultimate control is, of course, with the Legislature, but that control is of a political character; the control exercised by the Finance Committees of the House, the Estimates and the Public Accounts Committee, is also indirect and that of the Comptroller and Auditor General retrospective. But, as remarked by Durell, 'the public and the Parliament should be satisfied that somewhere or other in the Government there is a guarantee for financial order; that there is some authority that will watch the progress of public expenditure, the obligations which the different departments are incurring, and will give timely warning if that expenditure or those obligations are either outrunning the revenue provided for the year, or engaging the nation too deeply in future years. ¹ Such a continuous and concurrent control is vested in the Finance Ministry or Finance Department of the Government. Even when the executive Government was not responsible to the Legislature, there were Finance Departments both in the Centre and in the Provinces to watch over the financial transactions of the respective Governments.

¹ Durell, p. 242.
The position of the Finance Department is analogous to that of the Treasury in the United Kingdom. There are, however, substantial differences between the structure and functions of the Treasury in the United Kingdom and those of the Finance Ministry or Finance Department of a Government in India. These arise from the historical evolution of the administration in the two countries. The Treasury in the United Kingdom is much more than an organ of financial control; it has other traditional responsibilities. In India though the Finance Department (Ministry) was originally constituted on the pattern of the financial wing of the Treasury, with analogous functions it has not absorbed the changes instituted subsequently in the United Kingdom and has evolved on its own lines.

The function of the Treasury has been stated by Durell to be 'to control, to authorise and to advise, apart from its duty of having to secure that the money required is available. It is responsible for seeing that the Consolidated Fund is always in a position to meet the demands made upon it.' The functions of the Finance Ministry or the Finance Department of a Government in India are, broadly speaking, of the same nature and it has to discharge the same responsibility in respect of the Consolidated Fund of the Government concerned.

2 See Chanda pp 204-5.
3 Durell, p. 242.
Functions of the Finance Department

After the commencement of the Constitution the Finance Ministry or the Finance Department of a Government derives its authority from the Rules of Business made by the President or the Governor in pursuance of article 77(3) or 166(3) of the Constitution as the case may be. The functions of the Ministry (Department) are also broadly outlined by these rules.

Powers and functions of the Department were also defined in earlier times. The Devolution Rules made under the Government of India Act, 1919, prescribed the functions of the Finance Department. And although modifications have been made to suit the changed circumstances after Independence, that Department still exercises substantially the same functions.

They are as follows:

(a) It shall be in charge of the account relating to loans granted by the Government and shall advise on the financial aspect of all transactions relating to such loans;

(b) It shall examine and report on all proposals for the increase or reduction of taxation;

(c) It shall examine and report on all proposals for borrowing on the security of the Consolidated Fund or
for giving guarantees, shall take all steps necessary for the purpose of raising such loans as have been duly authorised and shall be in charge of all matters relating to the service of loans or the discharge of guarantees;

(d) It shall be responsible for seeing that proper financial rules are framed for the guidance of other departments and that suitable accounts are maintained by other departments and establishments subordinate to them;

(e) It shall be responsible during the year for watching the state of the Government's balances;

(f) It shall prepare a statement of estimated revenue and expenditure to be laid before the legislature in each year and any supplementary statements of expenditure; it shall also prepare the demands for excess grants, vote on account, votes of credit and exceptional grants, if any, required to be submitted to the legislature.

(g) For the purpose of such preparation, it shall obtain from the Departments concerned materials on which to base its estimates and it shall be responsible for the correctness of the estimates framed on the materials so supplied;
(h) It shall examine and advise on all schemes of new expenditure for which it is proposed to make provision in the estimates, and shall decline to provide in the estimates for any scheme which has not been so examined;

(i) It shall be responsible for the preparation of Appropriation Bills to be introduced in the legislature;

(j) On receipt of a report from an Audit Officer to the effect that expenditure for which there is no sufficient sanction is being incurred, it shall require steps to be taken to obtain sanction or that the expenditure shall immediately cease;

(k) It shall cause the report of the Comptroller and Auditor-General of India relating to the appropriation accounts to be laid before the Legislature and shall bring to the notice of the Committee on Public Accounts such other matters as should be referred to the Committee;

(l) It shall advise departments responsible for the collection of revenue regarding the progress of collection and the methods of collection employed;

It will have been seen that the Finance Department has been invested with a certain priority over other departments. The Finance Department, however, does not possess any power of final decision on any matter; for questions of policy are the concern of the Ministry. Any
disagreements between the Finance and other Departments are resolved by the Cabinet whose decision is of course final.

Powers of the Finance Department

The powers of the Finance Department are as follows:

(1) No department shall without previous consultation with the Finance Department, authorise any orders (other than orders pursuant to any general delegation made by the Finance Department) which —

(a) either immediately or by their repercussion, will affect the finances of the Government concerned, or which, in particular —

(i) involve any grant of land or assignment of revenue or concession, grant, lease or licence of mineral or forest rights or a right to water power or any easement or privilege in respect of such concession; or

(ii) in any way involve any relinquishment of revenue; or

(b) relate to the number of grading or cadre of posts or the emoluments or other conditions of service or posts.
(2) No proposal, which requires the previous consultation of the Finance Department under the Rules of Business, but in which the Finance Department has not concurred, may be proceeded with unless a decision to that effect has been taken by the Cabinet.

(3) No re-appropriation (virement) shall be made by any department other than the Finance Department, except in accordance with such general delegation as the Finance Department may have made.

(4) Except to the extent that power may have been delegated to the departments under rules approved by the Finance Department, every order of an administrative department conveying a sanction to be enforced in audit shall be communicated to the audit authorities by the Finance Department.

**Importance of Finance Department**

The importance of the Finance Department in connection with public finance has been very ably dealt with by Durell and the following passages would show the principles under which the Treasury acts and the manner in which the Treasury is treated in the United Kingdom.
It is the Department on which Parliament mainly relies for the prevention of financial irregularities on the part of the accounting Departments. Its control commences with the preparation of the estimates and continues throughout the various processes of expenditure, accounting and audit, until the final report of the Public Accounts Committee has been dealt with.¹

Not being a spending Department itself, it is in a good position to judge the requests that come from other Departments.

The functions of the Treasury are wide; for, as the department responsible for financial order, there can be no question on the financial bearings of which it will not have the direct or potential right to express its views. However it ought not to be, and cannot be, an authority on extremely scientific or technical proposals. In criticising for instance, the professional expenditure of the Army and the Navy, the Treasury would soon be infringing upon that criticism of policy which it is not its duty to exercise. Its functions are necessarily limited in such directions by the practicability of

¹ Durell, p. 244.
their exercise. On the other hand its control is not limited to seeing that the money is spent according to appropriation and under authority but also to seeing that it is wisely and needfully spent. In the case, therefore, more particularly, of the manufacturing departments and cognate concerns and services, the Department is entitled to ask a department to show cause for the work that is done, and whether what is being done is still needed.

Nor again must it intervene too much in administration. Though it is a department having control over other departments the word 'control' implies, not that it is its duty to watch them and act the part of a detective towards them, but that, whenever charges are made and difficulties occur and scandals are detected, it is its duty to devise regulations for meeting, correcting or remedying them. In this sense only does it control. It is impossible that it ever should, or that it ought to, watch over and inquire into the expenditure of the other departments; it has no machinery for doing so.

The control of the Finance Department by the Legislature is effected, firstly, through the control of the House over the Finance Minister and secondly, through the financial committees. The Finance Department is under obligation to be present before the Financial Committees of the House and
to write minutes on the reports of the Committee even though it may not agree with the views of the Committees on some cases. These minutes provide a valuable insight into the policy of the Finance Department in relation to principles and practice.

In conclusion it may be summed up that as a central financial authority it is the Department which promotes financial order, secures uniformity of system, exercise a valuable influence in advising departments as to organisation and similar general questions, compels a department to justify its proposals, and acts as an impartial critic on the departments' proceedings generally. Moreover, the existence of such a factor both relieves and strengthens the control of the Legislature. Consequently this department has been authorised to decide whether expenditure not authorised by the House may be incurred in exceptional circumstances and to authorise re-appropriations.

Control of Finance Department

The general control of the Finance Department over the public finance may be classified mainly under three categories, namely, (1) Control over estimates, (2) Control over details and (3) Control over expenditure.
Control over Estimates: This is anterior control and it terminates with the presentation of the estimates to the House. This question has been considered in an earlier chapter in connection with the Annual Financial Statement.

Control over Details: In respect of the expenditures of the various departments, the Finance Department must have previous cognisance from the estimates which are sent up to them as a matter of rule. Smooth working of the financial system of the Government largely depends upon the responsibility of respective departments with overall control by the Finance Department. The general control of the Finance Department is exercised by according previous approval to the general objects of contemplated expenditure and to the limits within which it must be carried out. The detailed financial administration works mostly on the basis of financial rules framed under the authority of the Rules of Business of the respective Government, and also under the rules framed under Article 283 of the Constitution.5 Government Departments and various authorities under them are largely invested with powers delegated by the Finance Department in matters of details of expenditure. As a matter of

5 Art. 283.
rule, no Department can without previous consultation with the Finance Department authorise any orders which directly or indirectly may affect the finances of the State. Even in the case of a new item of recurring expenditure of small amount the previous approval of the Finance Department is necessary. As has been expressed by Durell:—

'It is a fundamental and constitutional rule that the sanction of the Treasury is necessary for an increase of expenditure, not only in regard to additional to establishments but also as regards rates of pay, extra and special pay and allowances: and herein lies a valuable part of Treasury control, for such supervision "stops the constant leakage of public money in items of outlay, trivial perhaps in themselves but amounting in the mass to a heavy demand upon the taxpayer"'. 6

As will have been seen from the outlines of the powers and functions of the Finance Department described above the sanctions of the Finance Department is necessary, for, among others, the following matters:—

(a) Increase of the staff of any department, even though provision may have been made in the budget for such increase.

(b) Increase of the rates of pay or allowance or the granting of any special pay or allowance.

6 Durell, p. 328; See also Higg, Financial system of the United Kingdom, p. 82.
(c) Purchase of land or houses, sale or exchange of land or houses.
(d) Grants-in-aid to public bodies.
(e) Writing off of losses, abandonment of claims.
(f) Deficiencies or over-issues.
(g) Royalties and rewards to inventors.
(h) Gifts of public property to public bodies or individuals.
(i) Payment of compensation to a contractor.
(j) Remission of loans.

Durell says:

"The underlying idea in requiring such cases to be submitted to the Treasury is not only to control the Department, but also to secure an impartial tribunal which will examine their merits from an extra-departmental point of view. But, again, while the sanction of the Treasury is obligatory in many classes of expenditure and is not essential in others, cases are likely to arise, in which there may be a doubt as to the powers of the accounting department, or in which the circumstances may be so exceptional as to render reference to the Treasury advisable. Even, therefore, when a department
may be of opinion that it has the power to take independent action, it may still consider it safer to obtain the concurrence of the Treasury. Having done so, it will be in a stronger position to justify and defend its action before the Public Accounts Committee.  

Control over Expenditure: The Annual estimates are made on the basis of anticipated programmed for the year; but it may be that the forecasts of the departments do not come true. There should be some authority therefore to make the necessary adjustments when there is excess expenditure or surplus over the amount estimated in the Budget.  

It has been already stated that the annual estimates are divided into a number of grants which in their turn are divided into major heads, minor heads and details. It has also been stated above that a grant may contain several major heads while a major head can also be split up and included in more than one grant. The Budget is passed on the basis of the grants and in the absence of any authority from the Legislature, no expenditure can be incurred in excess of the amount of the grant nor can any saving under any grant be diverted into any other grant.  

7 Durell, p. 335.
The transfer of money from one major head to another major head within the same grant or from one minor head to another is however permissible. But no such transfer, or 'reappropriation' as it is known in India or 'virement' as it is known in the United Kingdom, can be made without the sanction of, or authority delegated by, the Finance Department. In the United Kingdom however, where there is virement between votes (as in the Service Departments Accounts), the sanction of the House is also required (retrospectively).

Although the Budget as presented to the Legislature shows the details of the proposed expenditure, the grants involved as a whole, as the Legislature does not insist that the details should be strictly adhered to in all cases, a certain latitude is given to the Executive Government to adjust the different items. But certain general principles have to be observed in sanctioning reappropriation. The following extract from the Report of the Public Accounts Committee of West Bengal will show how reappropriation can be made:

It is true that money is voted by the House and appropriated by the Appropriation Act to the Grant as a whole and not to the sub-heads constituting the Grant. Reappropriation from one Grant to another is not possible.
reappropriation is however allowed from one sub-head within a Grant to another. But, even so, there are certain general principles which ordinarily govern such reappropriations. First of all, reappropriation from one sub-head to another can only be made under the authority and sanction of the Finance Department. And in giving such sanction, the Finance Department is guided by certain principles. These principles have been succinctly and correctly laid down by Durell in his Book on Parliamentary Grants as follows:

"The Public Accounts Committee agrees that there is nothing unconstitutional in the practice of applying savings on one sub-head of a vote to meet the deficiency under another sub-head, as the formal vote of the House of Commons applies only to the total amount of each estimate; but at the same time it is of opinion that even here the Treasury should exercise care that the money is not spent in any way which seriously differs from the details presented to Parliament. It is, however, doubtful as to the correctness of sanctioning transfers between sub-heads if they are not clearly of the same kind. So far as Civil votes are concerned, this is agreed to by the Treasury, which never sanctions transfers unless
the sub-heads are closely allied."

Another pertinent question may arise, whether it is permissible without the specific sanction of the Legislature to restore or increase expenditure on an item the provision for which was specifically omitted or reduced by the vote of the Legislature. This involves the question of overriding the wishes of the Legislature. There is another question, viz., of providing money by reappropriation for 'new services'.

As regards the practice in the United Kingdom Durell says:

"The Government must adhere to those details as far as is consistent with the interests of the public service, since its good faith is pledged by the details given to Parliament, and the Comptroller and Auditor General would correctly bring divergencies to notice. This being so, it follows that if Parliament wishes to definitely prohibit the use of a vote for a service which would be covered by the terms of the resolution granting the vote, even though no mention is made of it in the details of the estimate, the resolution must obtain a special proviso to that effect. By this means only can Parliament ensure that a particular service is not carried out, for then there would be no funds which could legally be applied to it. In the absence of such a proviso there

would be no technical incorrectness in charging the expenditure against the vote, even though the service were for a purpose for which Parliament had not wished to provide. This point is admitted by the Treasury, which points out that, even if the amount of a vote is reduced in supply, there is no guarantee that expenditure will not take place upon the object in respect of which such reduction is made. Unless enforcement is secured by an official record of the specific reduction in the votes and proceedings of the House, the only other method of guarding against expenditure on the service in question is for the Treasury to inform the department concerned and to direct the discontinuance of the expenditure. 9

The system of voting grants by means of resolution of the House does not obtain in Legislatures in India. Effective parliamentary control so far as omission of or reduction in amounts of a sub-head under a grant or vote can be exercised through the timely caution taken in this regard by the Finance Department which should see that specific wishes of the Legislature are not overridden.

It also devolves upon the Finance Department to see that no department continually overestimates an item of expenditure with the deliberate intention of providing funds for transfer to meet deficits wherever they occur.

9 Durell, p. 296.
on other sub-heads.

If a new but kindred service is introduced, reappropriation for this purpose is permissible subject to the general principles enunciated above.

In respect of altogether 'new services', not provided for in the estimates, transfer is permissible only for urgent services. The Treasury admits that having placed before Parliament a list of new works, it would not hold that it had a free right to apply money to new works of any consequence, except under such urgent circumstances as it would be prepared to justify before Parliament. The Public Accounts Committee recommends that the Treasury shall exhibit the utmost jealousy of any proposal to use savings for the commencement of any new work in the absence of any provision in the estimates. In all such cases treasury authority can only be given on the understanding that the expenditure on the proposed service can be met from savings on the aggregate. 10

As stated by Durell:—

'the sanction of the Treasury is not, and is not to be regarded as, a pure formality, even when the service has been necessarily started and covering sanction is asked for, its control must be a shadow, but operative.' 11

10 Durell, p. 302.
11 ibid, p. 304.