

The Finance Committee under the Manning Constitution of 1924

THE Manning Constitution provided for a complicated system of government which was difficult to operate. On the one hand it established a permanent executive which while being answerable for its actions to the legislature owed a measure of more ultimate responsibility through the Governor to the Secretary of State and could not resign its responsibility to either under any circumstances whatsoever. On the other hand it provided for a legislature which had in it a majority of potential opponents of this executive—namely the elected unofficial representatives of a restricted electorate. In effect, the Constitution brought into being a legislature which enjoyed some amount of power but with no means of expressing that power in a constructive way. It also provided for an irremovable executive which was entrusted with responsibility for the good government of the country but with very little means of discharging the responsibilities entrusted to it. Such a situation would, in an atmosphere of suspicion and ill-will, have given rise to a series of deadlocks. But good sense prevailed and co-operation between the legislature and the executive helped to maintain the administration as a going concern. The device through which this co-operation was achieved was the institution known as the Finance Committee.

Before an examination and analysis of the working of this interesting piece of constitutional machinery is undertaken, it will be worth while to go into its historical background. Students of the constitutional history of the Island know quite well that finance was the main issue over which the Governor and his party of Officials on the one hand, and his opponents and critics on the other fought their major battles in the Legislative Council during the greater part of the nineteenth century. The Colebrooke Legislative Council in its early days, until 1838, did not have any control over the budget. The budget was not even submitted to it for its comments but after 1838 the Council was granted the right to criticise and to partially revise the budget. But this right was confined only to the annual contingent expenditure, the Secretary of State retaining to himself the power to sanction the fixed civil and military expenditure.¹ In a despatch dated

1. Mills, *Ceylon Under British Rule, 1795-1932*, O.U.P. 1933, p. 114.

July 17th, 1848, the Secretary of State, Earl Grey, informed the Governor that the control of the budget would be given to the Council but only after it had passed 'an Ordinance permanently charging upon the revenue of the Colony the fixed expenses' both civil and military. This was in part a reply to the agitation conducted by a Legislative Councillor named Ackland who clamoured for control over all fields of finance. The Secretary of State was not willing to concede this claim. He insisted that a distinction should be maintained with regard to the fixed establishments in that a legislative measure should be necessary to alter any item in it. With regard to other items of expenditure, these could be carefully scrutinized by the Legislative Council before adoption. Ackland also complained that sufficient time was not given by Government for the discussion of the annual appropriation ordinance. The Secretary of State agreed with Ackland that ample time should be provided to members.²

The Unofficial Members of the Legislative Council were however not satisfied with these concessions. They demanded the right to determine how revenue should be distributed and for this purpose they were intent on carrying on a persistent agitation. In 1858-59 they passed an Ordinance to provide permanently for the annual payment of the civil expenditure but as no decision was made about the military expenditure, they were not given control over the Budget. There was failure to reach agreement on what the exact amount on military expenditure should be.

Fresh agitation began in the early 'sixties for control of the Budget. The European Unofficials were in the forefront of this agitation because they were dissatisfied with the amount spent by Government on road and rail communications. The Secretary of State was willing to transfer control of the budget but only after agreement had been reached on the amount to be expended on the military establishment. In 1864, the Secretary of State instructed the Governor to the effect that the Island should henceforth pay for the upkeep of its military establishments. A Commission of Inquiry would fix the amount but till then, the Legislative Council was required to pass a provisional ordinance fixing the military expenditure at £, 135,000. There was opposition to this proposal from the Unofficial Members but despite this the proposed ordinance was passed with the aid of the Official majority. The reply of the Unofficials to this arbitrary action was resignation en masse on November 15, 1864. The proposed Commission of

2. For the text of the comments of the Secretary of State, Earl Grey, on the various suggestions put forward by Mr. Ackland, in a despatch to Governor Torrington vide *The Ceylon Civil Service Manual*, compiled by C. Dickman, third edition, Colombo, Government Press, 1883, pp. 38-41.

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Inquiry was appointed the following year and it reported that the annual cost of the military establishment might be fixed at £ 160,000. In 1867 a permanent Ordinance was passed by the Legislative Council and the Colonial Office thereupon transferred to the Council the control of the budget.³

From 1867 to the time of the arrival of Governor Sir Henry McCallum in 1907, the Legislative Council exercised the right to scrutinize every item of the annual contingent expenditure, a right which Unofficial Members exercised with care and persistency. But Unofficial Members could not carry on their opposition to the point of defeating the Government—for the reason that the latter possessed a majority in the Legislative Council. To the Unofficials this was an unsatisfactory state of affairs. Their control of the budget was limited to the extent that no expenditure could be incurred by the Government without the prior sanction of the Legislative Council. Further this latter provision enabled Unofficial Members to put forward the needs of the country before Government proceeded to carry out its programme of expenditure. There was however a provision that in urgent cases where money was needed but the Legislative Council was not in session to sanction expenditure, the Governor could by special warrant authorise such expenditure. The Legislative Council would when it met approve the expenditure that had been authorised by the Governor by special warrant.

There was criticism of this method of expending moneys without the prior sanction of the Legislative Council. This criticism was at first largely confined to the European Unofficials but towards the end of the nineteenth century, the more politically conscious sections of the Ceylonese public began to express uneasiness over the way in which control over expenditure was exercised. There were demands for greater consultation. What was more, there was a demand for the introduction of the elective principle so that the Legislative Council may be representative of educated public opinion in the country. To satisfy these demands, Governor Sir Henry McCallum introduced the device of the Finance Committee.

The Finance Committee as constituted by Sir Henry McCallum consisted of (1) three Official Members, viz, the Colonial Secretary, the Controller of Revenue and the Colonial Treasurer and (2) all the Unofficial

3. For further information on these matters refer Mills, *Ceylon Under British Rule, 1795-1932*, O.U.P. 1933, pp. 111-117.

Members of the Legislative Council. The Colonial Secretary was ex-officio Chairman and the latter and three Unofficial Members of the Committee constituted a quorum. The Committee met for the purpose of considering all votes entailing "supplementary or unforeseen expenditure from public funds for which the sanction of the Legislative Council is necessary" but did so only when the Legislative Council was not in session or when the Council was in session but had been adjourned *sine die* or for a period exceeding twenty days. At the meeting of the Legislative Council, the Chairman of the Finance Committee was required to present to the Council for its formal ratification the report of the Committee indicating (1) the items of expenditure approved by it since the Council last met and (2) any expenditure which had been proposed to the Committee but had not been approved by it. The report of the Committee, unless it dealt with expenditure which had been proposed to it but for which it declined to grant approval, was to be put to the Legislative Council for adoption without debate. Three members present could however request a debate even on a matter which had received the approval of the Committee.

The introduction of this Finance Committee into the Island's governmental system did indeed constitute a substantial advance on the powers and privileges of the Legislative Council especially in the sector of finance. For one thing it did away with the system of expenditure of public funds by special warrants issued on the authority of the Governor during the intervals when the Legislative Council was not in session. For another it ensured that there would be greater scrutiny of votes by Unofficial Members before there was any expenditure of public funds. For the first time the Unofficials found themselves in a majority against the Officials (eight Unofficials to three Officials) and free to exercise in a more realistic sense the financial powers which they were hitherto supposed to have, in theory, possessed. But there were gloomy prophets who viewed this innovation with suspicion. True, they admitted the Unofficials possessed a majority in a Committee which now exercised considerable financial authority, but Mr. A. Padmanabha, a representative spokesman of these critics had discouraging comments to make about the new device. Writing in May 1908 in an article entitled 'Reform of the Ceylon Legislative Council' in the Ceylon National Review, Mr. Padmanabha remarked *inter alia* :—

"He (i.e. Governor McCallum) is too new to the Island to know that the fulfilment of his wish will be impeded in no small measure by a system under which the Unofficial Members are chosen by the Governor and not

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by their constituents. Men who owe their appointment to the Governor and whose continuance in office under the new Five Year Rule depends on his wish can hardly be expected to be as free in their advice and the expression of their views as elected members, especially when measures are under consideration on which Government, with the best intentions but with imperfect knowledge of the people's needs, conditions, and wishes, have set their hearts on. It is a false position from which the members should be relieved in the interests alike of the Government, the public and of themselves."⁴

The Finance Committee was a liberal concession to nationalist sentiment but it had its drawbacks. There was much truth in Mr. Padmanabha's criticism that nomination detracted from the independence of members. Besides, at this juncture, the Government had very little to fear from the European Unofficial Members. The latter had by now obtained most of what they had hitherto been fighting for—a network of roads and railways in the plantation areas, medical amenities for their estate populations and better educational facilities for the children of the labour forces in the estate districts. They were therefore content to rest satisfied and even to support the Government as against the Ceylonese Unofficials. It was the latter who were now in the forefront of the opposition against the colonial authorities. In Finance Committee therefore the Government and the Unofficial Opposition of Ceylonese were precariously balanced against one another, three Official Members to five Ceylonese Unofficials, with the European Unofficials holding the balance but tending to be more sympathetic towards the Official Members. The forces on opposite sides were however not so finely divided as to admit of any racial division between Ceylonese and Europeans but this tendency was there and it did much to spoil the usefulness of this constitutional innovation. It must also not be supposed that Officials and Unofficials were often divided into Government and Opposition in the Finance Committee. There was co-operation between the two sectors and quite often attempts were made to reconcile differences and arrive at compromises. But as was mentioned earlier, the system of nomination left room for the criticism that the Governor packed the Legislative Council with favourites or at the worst lukewarm critics. There was still another defect in this new device. The rules were loaded against the Unofficial Members. According to Clause 45 of the Rules and Orders of the Legislative Council (of 1911) the Chairman of the Finance Committee who

4. Vide 'Reform of the Ceylon Legislative Council' by A. Padmanabha in *Ceylon National Review*, Vol: II, No. 6, p. 172.

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was the Colonial Secretary had not only to present to the Council for its confirmation the items of expenditure approved by it since the Council last met, but also any expenditure disallowed by the Committee. This meant that if the Unofficials persisted in their opposition in Committee, the Government could always have its way in the Council with the aid of its Official Majority. There might therefore have been many an occasion where the Unofficials had to be satisfied with half a loaf in Committee rather than have gone without any bread in Council !

Under the Crewe—McCallum Constitution (1912—1920), the Finance Committee made considerable headway. It enabled Unofficial Members to keep in close touch with the administration and many of them took a great deal of interest in its proceedings. It helped to foster a sense of goodwill and co-operation between the Official and Unofficial Members. At first Unofficial Members were suspicious of its purpose and were not willing to delegate to it too much of power. This happened when the Select Committee on the Rules and Orders of the Legislative Council was considering the revision of the rules of the Council. The Ceylonese Member at the time, Mr. P. Ramanathan, wanted to introduce a provision that only minor votes under a certain sum of money should be dealt with by the Finance Committee and that the larger votes should be discussed in open Council. The Colonial Secretary however pointed out that the Committee as constituted was potentially capable of exercising considerable powers if the sphere of its jurisdiction was left undefined. Members ultimately fell in line with the views of the Colonial Secretary.⁵ The result was that the Finance Committee expanded its powers in directions other than its legitimate sphere. For instance in 1912, the Colonial Secretary informed the Legislative Council, when he presented a list of supplementary bills for its approval, that he had called a meeting of the Finance Committee while the Council was in session to consider papers dealing with the items of expenditure listed in the bills. The rules of procedure stated that the Finance Committee could be summoned only for the purpose of voting moneys while the Council was not in session but the Colonial Secretary gave his sanction to a new practice when he stated that it could be summoned at any time for the purpose of considering papers which might be laid before the members of the Committee.⁶ Again, during the year 1913, the Finance Committee was utilized by the Acting Colonial Secretary to approve an Address to the departing Governor, Sir Henry McCallum, a function which

5. *Hansard* 1912-13, pp. 231 and 232.

6. *ibid.*, p. 295.

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properly belonged to the Legislative Council. The latter could not be summoned as the Governor was ill and so the Finance Committee was used as a substitute. The Acting Colonial Secretary later presented the Address to the Council for the purpose of obtaining its approval to have it entered on the Minutes of the Council, but in so doing he admitted that he was guilty of a 'technical irregularity.'⁷

It was however in the matter of the annual budget that the Finance Committee came to wield considerable influence. During the early part of the Crewe-McCallum period, the Supply Bills of 1912-13, 1913-14 and 1914-15 were referred at the end of the second reading to Select Committees consisting of a few Official and Unofficial Members appointed by the Governor.⁸ An important departure was made however when the annual estimates for 1915-16 were being prepared. On that occasion, the Colonial Secretary summoned the assistance of the Finance Committee to consider the annual estimates even before they were presented for their first reading to the Legislative Council. The reason for this departure was that the disturbed conditions in the country during the months of June and July 1915 and the subsequent postponement of the meeting of the Legislative Council, left the Legislative Council with very little time to devote to the budget. The Colonial Secretary felt that this could be made up by providing Unofficial Members with an opportunity of examining the estimates before their presentation to the Council. The Colonial Secretary appeared to be

7. *ibid*, vide pp. 345-47 for a full account of the proceedings.

8. Note.

- (a) The Select Committee on the Supply Bill for 1912-13 consisted of the Colonial Secretary (Chairman), the Acting Controller of Revenue, the Treasurer, the Acting Government Agent, Western Province, the European Urban Member, the European Rural Members, the Ceylonese Member, the Burgher Member, the Senior Low-Country Sinhalese Member and the Senior Tamil Member vide *Hansard* 1912-13, p. 149. The Select Committee did not have a Kandyan or a Muhammadan representative in it.
- (b) The Select Committee on the Supply Bill for 1913-14 consisted of the Acting Colonial Secretary (Chairman), the Controller of Revenue, the Treasurer, the Acting Government Agent of the Western Province, the European Rural Member, the Burgher Member, the Kandyan Sinhalese Member, the Second Tamil Member and the European Urban Member vide *Hansard* 1912-13, p. 495. There was once more no Muhammadan representative. The Kandyan representative was, however, included but on this occasion there was no one to represent the Low-Country Sinhalese interests.
- (c) The Select Committee on the Supply Bill for 1914-15 comprised the following members: The Colonial Secretary (Chairman), the Controller of Revenue, the Colonial Treasurer, the Government Agent, Western Province, the Principal Collector of Customs, the Ceylonese Member, the Burgher Member, the First Low-Country Sinhalese Member, the Second Tamil Member and the European Rural Member vide *Hansard* 1913-16, p. 80. This time there was no Kandyan or Muhammadan representative. The employment of the Finance Committee to consider the Supply Bills from 1915-16 onwards, however, solved the problem of providing full and adequate representation to all sections of the Ceylonese community in the final determination of the Government's annual financial policy.

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so satisfied with this change in procedure that when introducing the first reading of the Supply Bill for 1915-16, he stated that he wished to regularise the practice and utilize the services of the Finance Committee in like manner for future years.⁹ This was indeed evidence of Government's desire to utilize the services of the Finance Committee for purposes other than those for which it was intended when it was first instituted by Governor McCallum. But there were Ceylonese who looked upon this change with suspicious eyes. The Ceylonese Member, Mr. P. Ramanathan, gave vent to these sentiments when he expressed disapproval of the change. As a result, Government reverted to the old procedure for the Supply Bill for 1916-17. But when the Bill came to the stage of being referred to a Select Committee, the members of which were usually nominated by the Governor, the Colonial Secretary moved that the Committee be composed of all the Members of the Finance Committee. The Governor, as President of the Council, granted his approval to the change.¹⁰ Thereafter, the same procedure was followed when the Supply Bills for 1917-18, 1918-19, and 1919-20 were considered by the Legislative Council. Evidently, Government had found in this Finance Committee an efficient device for formulating a financial policy acceptable to the Legislative Council as a whole.

The Crewe-McCallum Constitution was uperseded by what the writer has chosen to call "the Temporary Constitution of 1921". It was the handiwork of Governor Sir William Manning. From the beginning there was very strong opposition to this Constitution. Manning realised this but wished to save himself embarrassment. He, therefore, persuaded the Ceylonese Nationalists to agree to a compromise. They should give the Constitution a chance but after reasonable lapse of time, he would note the unsatisfactory features that might emerge from its practical working and recommend changes and alterations to remedy any defects. The Governor also agreed to give due consideration to any proposals for reform that Unofficial Members of the Legislative Council might bring forward after they had given this new Constitution a trial.¹¹

9. *Hansard* 1913-16, p. 362.

10. *Hansard* 1916, pp. 179-180.

11. Vide 'Government Pledges' as signed by the Attorney-General on behalf of the Ceylon Government on 6th December, 1920, in *The Handbook of the Ceylon National Congress, 1919-1928* edited by S. W. R. D. Bandaranaike, pp. 245-246. Also refer *ibid*, Appendix C, p. 85 for an account of the "Proceedings of a Deputation which waited on His Excellency the Governor at Queen's House on Monday 29th November, 1920 at 10 a.m. in connection with certain matters connected with the re-constitution of the Legislative Council."

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The new Council under this Constitution met for the first time on 7th June 1921. It met for the last time on August 28th 1924—lasting in all for a period of little more than three years. During this time the Finance Committee was able to strengthen its position and consolidate the gains made during the Crewe-McCallum dispensation. There were reasons for this improvement. Under the Temporary Constitution of 1921, there was a fair quota of territorially elected members. Moreover, the Government was in a minority in the legislature with only fourteen members and could not expect to have all its own way unless it endeavoured to act in a manner which appealed to the political sense of the communally elected Unofficial Members (2 Europeans, 1 Burgher), the Nominated Unofficial Members (1 Indian, 1 Muhammadan, 1 Burgher, 1 Ceylon Tamil, 1 Low Country Sinhalese, 2 Kandyan Sinhalese), the representatives of special interests (1 European, 1 Low-Country Sinhalese) besides the territorially elected members (9 Sinhalese and 2 Ceylon Tamils). There were occasions when Government had to indulge in some sectional bargaining in order to get its projects through. In general the Government tended to be more cautious in the manner of its approach to political problems for the simple reason that it lacked the steady stream of votes which are necessary for bold and decisive action. It must however not be assumed that Officials and Unofficials, especially the territorially elected among the latter, were divided into two camps and engaged in bitter combat. This was more the exception than the rule. The general tendency was for the cordial atmosphere of the committee room to prevail. Further, a far more important change of vital constitutional significance had begun to develop within the sequestered precincts of the Finance Committee during this period. This change became an accepted practice under the Manning Constitution of 1924. The Finance Committee had begun to outlive its original purpose of controlling the financial path of the Government during the twilight period when the Legislative Council was not in session. Instead, in addition to serving its original purpose, it began to become more a consultative chamber where the Executive sought to test the type of reception that would be accorded to its legislative projects before these were presented for consideration and debate in open Council.

Affairs were in this state when the Manning Constitution of 1924 was inaugurated. This lengthy historical introduction has been provided in order that the reader might be better able to comprehend the significance of the change in the position of the Finance Committee under the Manning Constitution of 1924. Here, for the first time in the history of constitutional

development in Ceylon, the Officials found themselves relegated to the position of a decisive minority both in the Legislative Council as well as in the Finance Committee. There was not much opportunity for sectional bargaining as under the previous constitution whereby complete annihilation could be avoided by some judicious surrender of minor essentials. If the Officials were defeated in the Finance Committee, there was a fair possibility that the same fate would await them in the Legislative Council. The territorially elected Unofficials overwhelmed in both the Committee Room and the Legislative Council. They were 23 as against the 12 Officials in a Council of 49, while of the remainder, 11 were communally elected and 3 were nominees of the Governor. A weak Government had therefore to grope its way in the legislature. The changed nature of the composition of the legislature converted the Finance Committee from a mere mechanism for voting funds for the Government during the periods when the legislature was not in session to a chamber of consultation where the Government endeavoured to so fashion its projects as to enable these to be acceptable to a fair minority or the majority if not the entire body of Unofficial Members in the Finance Committee. As a result legislation in effect became a collective effort on the part of the Executive and the legislature. The term Finance Committee came to be a misnomer. The Committee transformed itself into a Chamber where the policies and programmes of the Government were discussed in full and complete detail. Each act of legislation, unless it was a matter of imperial and paramount importance, came to be the resultant product of joint exertions on the part of both Officials and a fair number of Unofficials. The Finance Committee in effect had become the Executive's subterranean approach to the legislature.

An examination of the constitution, composition and functions of the Finance Committee will provide the student with a great deal of information as to the manner in which the business of government was carried on. The Committee consisted of 3 Official Members, viz the Colonial Secretary, the Controller of Revenue and the Colonial Treasurer. These three were ex-officio members. They were also members of the Executive Council. The Colonial Secretary was ex-officio Chairman of the Committee. The rest of the Committee consisted of the entire body of Unofficial Members of the Legislative Council. These numbered thirty seven. Of the thirty seven, three were nominated by the Governor of whom two were also Unofficial Executive Councillors. Twenty-three were representatives of territorial constituencies and of these seven belonged to the Tamil speaking areas. In strictly communal terms, the Unofficial Members of the Com-

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mittee were distributed as follows : 16 Sinhalese, 9 Ceylon Tamils, 4 Europeans, 3 Burghers, 3 Muhammadans and 2 Indians. It would be seen that the composition of the Committee was such as to provide opportunities for sectional bargaining. The Government could at any time make overtures to any particular group or to sections from any of these groups and thereby enlist support for a policy which might then have found a passage through the Legislative Council. In fact there was no necessity for Government to make such overtures. Government could always watch how the voting went in Committee and if it could be certain of support from about seven or more members, it could be fairly certain of pushing a project through in the Legislative Council. For there was generally a tendency for the three communally elected European Members and the three Burgher Members too to support the Government.¹² Besides, the two nominated Unofficial Executive Councillors also either supported the Government or if they disagreed with the Government, abstained from voting. It was only in extreme cases that they voted against the Government. Generally however since they were aware as Members of the Executive Council, of the circumstances which led to the formulation of a particular policy, they not only supported the Government in the Committee and the legislature but also endeavoured to put across that policy to their fellow members.

The Finance Committee of the Legislative Council thus tended to become a sounding board for the legislative programme of the Government. The reception accorded in it to Government policy enabled the Executive to judge for itself the possibility of getting its measures through in the legislature. This resulted in policy being formulated in the climate of Unofficial opinion. The Finance Committee ceased to confine itself merely to the voting of supplies during the period when the legislature was not in session. In addition it tended to become a permanent standing committee of the Council meeting *in camera* in order that most

12. On December 11, 1929 when Mr. F. A. Obeyesekera was speaking on the Colonial Secretary's motion regarding the 'Reform of the Constitution,' *Hansard* records an interesting aside that occurred between Mr. Obeyesekera and Mr. G. A. Wille (one of the Burgher members) viz :—

Mr. F. A. Obeyesekera :—" I say, Sir, that the Constitution is so devised. as to enable the twelve Official votes, if they get adhesion from those parts of the House that I have indicated † to obtain a majority in this House. We have seen that illustrated time and again within this Chamber."

At this stage Mr. Wille was seen whispering to Mr. Obeyesekera. Mr. Obeyesekera then stated : "The Honourable the Burgher Member (Mr. Wille) says, Sir, sometimes we save the situation thereby. I am glad that he thinks so. That is an explanation of his own conduct." Vide *Hansard* July-December 1929, p. 1760.

†The parts of the House indicated by the Honourable Member (Mr. F. A. Obeyesekera) in the earlier part of his speech were "largely the votes of Honourable Members of the minority communities added to the twelve Official votes and the votes of the two Nominated Members of the Executive Council." *ibid.* p. 1759.

of the legislative projects of the Government may be submitted to its members for their consideration before these were introduced into the Legislative Council for final sanction. It was however the Governor and the Executive Council that entrusted the Finance Committee with these additional duties. At no time did the Unofficial Members desire to expand their powers or to diminish the authority of the Executive Council. In fact it was their contention that the Executive was attempting to entrust them with duties which were outside their proper province. If the Executive intended to make this a permanent arrangement, then provision should be made for this in the Constitution they protested.¹³ But they were opposed to Government utilising the Finance Committee to gauge the opinions of Unofficial Members without it in any way binding itself to the decisions of the Committee or of Government making use of the secrecy that prevailed in the Committee to enter into 'deals' with Unofficial Members.¹⁴ Their opposition to these improvisations on the part of Government was also tied up with their demand that some of the territorially elected members of the Legislative Council should be invested with ministerial responsibility and be included in the Executive Council so that the Ceylonese themselves might gain some insight into the working of the administrative system and a training in responsible government.¹⁵

13. Note the statements of Unofficial Members on the occasion of the debate on the Report of the Select Committee appointed to revise the Rules and Orders of the Legislative Council in pp. 638-651 of *Hansard* 1927. Mr. D. S. Senanayake stated inter alia :— I realise the advantage of having discussions in Finance Committee but at the same time I think it is very necessary to know what the functions of the Finance Committee are" (*ibid*, p. 643). Mr. E. R. Tambimuttu stated among other things : " But the Finance Committee whose legitimate purpose it is to pass urgent votes when Council is not sitting, has been made the medium through which the Government of the day ascertain the views of this House in an unorthodox fashion. They have been used to find out whether the claims of Colombo are preferable to Kandy as the site for the University, and there are hundreds of matters which are referred to it. But these matters do not come within the purview of that Committee. If the Committee is to consider these matters, the Committee should be given the power to do so" (*ibid*, p. 638).

14. Vide speech of Mr. F. A. Obeyesekera on the motion regarding Publication of proceedings in Select and Finance Committee meetings when he stated inter alia : " is it not within our knowledge that sometimes arrangements are entered into between Members of Council and between Heads of Departments and individual Members, and that when subjects are brought before us and certain Members speak on them with full knowledge and advocate certain courses, other Members acquiesce because they are to an extent ignorant of certain aspects of the questions ? " (*Hansard*, 1927. p. 245).

15. Refer *The Handbook of the Ceylon National Congress 1919-1928*, edited by S. W. R. D. Bandaranaike, pp. 207-213 for the full text of the resolutions passed by the first session of the Ceylon National Congress including the resolution asking for the appointment of some of the elected Unofficial Members to the Executive Council. Also refer page 517 for the text of a motion proposed by Mr. G. A. Wille and seconded by Mr. C. S. Rajaratnam at the sessions of the Ceylon National Congress in 1925 where it was requested that three of the six members of a reformed Executive Council should be chosen by the Governor from the Unofficial Members of the Legislative Council two at least of whom should be territorially elected members and be placed in charge of such Departments as the Governor may determine.

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This gradual accretion of power to the Finance Committee led observers to mistaken conclusions as to its position in the constitutional set up of the country. The most notable of these critics were the Donoughmore Commissioners. In their report, they stressed the point that since "the Government were unwilling to risk the occurrence of a situation in which a decision might be taken in Executive Council and the supply necessary to carry out that decision refused by the Finance Committee there was only one way to ensure that the decisions of the Finance Committee should not run counter to those of the Executive Council, namely, that before arriving at any final decision in the Executive Council, the Government should consult the Finance Committee and ascertain whether the action contemplated would meet with the Committee's concurrence The inevitable result has been the diversion of all important business from the Executive Council to the Committee which has gained in power and prestige in proportion as the Council has lost."¹⁶ This statement was a gross exaggeration of the actual situation. What happened during the period of the Manning Constitution was that there was an attempt to establish better relations between the Executive Council and the Legislative Council, and the Finance Committee helped towards achieving this objective. Indeed under the Manning Constitution, a group of the more important members of the Executive Council was found places in the Finance Committee. This section comprised the three ex-officio members viz. The Colonial Secretary, the Controller of Revenue and the Colonial Treasurer and the two Nominated Unofficial Executive Councillors. There were also occasions when a territorially elected Unofficial Member functioned for a temporary period as a Member of the Executive Council. So that, in general, there were at all times during the period of the Constitution's existence, at least five important Members of the Executive Council who were also members of the Finance Committee. There was therefore no question of diversion of business from one organ of government to another. Rather, a means had been found in the device called the Finance Committee for the Executive Council to think aloud about its future programme of action and judge for itself the type of reception which that programme would be accorded in the legislature of the land. The decisions of the Finance Committee were in no way binding on the Government. A defeat for the Government in the Committee did not necessarily mean defeat for it in the Legislative Council. The Committee provided the Government with a means of discovering how the voting would go in the Legislative Council and thus a way out was found by a minority Government for

16. Vide *Donoughmore Report*, pp. 23 and 24.

avoiding the humiliation of defeat in open Council. However if Government was still determined on getting the sanction of the Legislative Council because of the urgency or importance of its legislative proposals notwithstanding the fact that these had failed to obtain the approval of the Finance Committee, it had recourse to more subtle methods in order to circumvent opposition from Unofficial Members. One method was to accept cuts and work on what was allowed and when the vote was exhausted to present a supplementary estimate to the Finance Committee for further funds. The Members were informed that the work of the Department would come to a standstill if they did not vote the funds asked for. Unofficial Members in their desire not to embarrass the work of Government very often gave in to such applications for further funds. A typical instance of such a procedure was when the Acting Colonial Secretary moved in 1927 that the report of the Standing Committee on Finance dated June 17th 1927 be adopted. Mr. E. R. Tambimuttu demanded a debate on the report especially on an item which asked for an increase of the vote for travelling, in the Medical and Sanitary Department. He pointed out that the Government had brought the matter before "an attenuated House, at dusk, and got it through with the aid of the Official votes."¹⁷ "Is it fair," asked Mr. Tambimuttu, "that a vote like this should be rushed through the Finance Committee and be brought here as a supplementary supply when nobody looks into it carefully."¹⁸ When it came to the turn of another Unofficial Member, Mr. F. A. Obeysekera, to speak on behalf of those Unofficial Members who had supported the vote in the Finance Committee, he stated inter alia that "we had to vote some amount unless we were going to hold back the machinery of Government. Consequently I joined those Members in the majority in approving of the vote asked for and I think it is the duty of this Council to vote that sum"¹⁹

A second method was to present an estimate and gauge the support that it would obtain from the Unofficial Members. If the estimate was turned down but obtained the support of a fair number of members, Government did not hesitate to introduce it in open Council where with the assistance of the balance of the Official Members (only 3 out of the 12 Official Members were members of the Finance Committee and the Select Committee on the Budget) there was generally a possibility that the measure would go through.

17. *Hansard*, 1927. p. 889.

18. *ibid.* p. 891.

19. *ibid.* p. 901.

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Sometimes Members opposed a measure in Committee because the public was not looking and so Government introduced it in open Council where Members had either to vote for the measure or to oppose it at the risk of courting unpopularity. Such a procedure was followed over the Government's proposal to make a grant towards the building fund of a hostel which the Y.W.C.A. proposed to erect in Colombo. According to the Colonial Secretary who moved the proposal for the grant, the matter had come up before the Finance Committee where it was "hotly debated" and in view of the great divergence of opinion, he had decided to bring the matter before the Council so that the country at large would know exactly what the position was.²⁰ Mr. D. S. Senanayake objected on the ground that the Colonial Secretary wished to see the names of those voting for and contra published.²¹ The Colonial Secretary, however, denied that he had such an intention. Whatever the intentions were, the introduction of the motion in open Council had the desired effect. It was adopted by 31 votes to 7 with one abstention.

Still another method was to ask for an open vote and thereafter not keep to definite details of expenditure as provided for in the estimate. This was the usual procedure followed in regard to major undertakings. The result was that once the outlay was sanctioned there was no question of calling a halt to the work initiated. Further applications for funds would be made from time to time and Unofficial Members were reluctantly compelled to grant their approval. This was the procedure followed over the Hydro-Electric venture. The Government was given authority to spend up to Rs. 12 million but ere long, revised estimates were presented and these were ultimately approved by Unofficial Members though under protest. Government however did not encourage this method of spending public moneys. Mr. (later Sir) A. G. M. Fletcher, the Colonial Secretary, had some important criticisms to make, when he addressed the Legislative Council on June 16th 1927, on the subject of 'Open votes.' Among other things Fletcher stated that at least in the instances that had come to his notice, there had been a tendency to treat the country's loan fund amounting to seventy three million rupees as an open vote and that no effort had been made to subject expenditure from this fund to the usual controls. In particular he drew attention to two projects, the Batticaloa Railway and the Hydro-Electric Scheme where estimates of expenditure detailed under various sub-heads had been presented to the Council and approval obtained

20. *ibid.* p. 2303.

21. *ibid.* p. 2304.

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for the expenditure of a certain amount of money, but that when construction work began, the Engineers in charge of the projects had not been instructed to confine their expenditure to the various details of construction fixed under the various sub-heads. Instead they had been allowed a free hand and had been permitted to draw on the total sum without reference to the original allocation. This matter stated Fletcher came to light when an inspection of the Hydro-Electric Works was made in April 1926. It was discovered that against an approved estimate of Rs. 150,000 for roads and temporary buildings respectively, some Rs. 450,000 had already been spent under each sub-head without reference to Government. The Colonial Secretary pointed out that similar violations of procedure had taken place in regard to moneys voted for repairs to the Victoria Bridge and that in the case of the Batticaloa Railway Project, the Chief Construction Engineer had stated before a Commission of Inquiry that the Engineer who had been placed in charge of the construction of the Mahaweli-ganga bridge had not known what sum of money had been allocated to the work by the Council. The Colonial Secretary in conclusion assured the Council that procedure would be tightened and that in the future there would be strict supervision.²²

There were times when Government resorted to unorthodox procedures in order to placate Unofficial Members and carry through its measures. For instance there was an occasion when Government introduced a motion in the Legislative Council for the creation of a permanent post of a Medical Entomologist at a salary of £ 1,000 per annum.²³ The usual procedure would have been for Government to have consulted the Finance Committee and if the latter had approved of it to have submitted the measure to the legislature for sanction. Even if the Finance Committee had rejected the measure, Government could have presented it to the Legislative Council for its views. In the case in question Government had attempted to retain the services of a Mr. Carter as Malariologist. The Finance Committee had refused to grant its approval to the proposal on several occasions. The proposal therefore to retain the services of Mr. Carter as Malariologist was abandoned and a motion was suddenly introduced to appoint him as a Medical Entomologist. There was opposition to this from Unofficial quarters when it was introduced in the Legislative Council for the first time. An Unofficial Member alleged that Government was determined to retain Mr. Carter's services at any cost and that the motion had been introduced in Council in order to compel Members to express their views

22. For a fuller account of the Colonial Secretary's statement vide *ibid.* pp. 599 and 600.

23. *Hansard* 1926, p. 95.

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and vote in public.²⁴ Another Unofficial Member (Mr. E. R. Tambimuttu) moved an amendment that "the motion be referred back to the Finance Committee for their recommendation."²⁵ The Colonial Secretary noticed the rising opposition and suggested a compromise. "I would ask the mover whether, if the Government undertakes that the Government members who are not Members of the Finance Committee will not vote on the motion, he is prepared to withdraw his amendment."²⁶ This was agreed to although an Unofficial Member, Mr. H. R. Freeman asked: "Is it desirable to put such a bar on the vote of Members?" "If this is done," stated Mr. Freeman, "I shall abstain from voting. I do not like the idea at all."²⁷ But in spite of the Member's opposition, the proposal was agreed to. The procedure was unorthodox in that a normal meeting of the Legislative Council was suddenly changed into a public meeting of the Finance Committee and Government Members who were not Members of the Finance Committee were debarred from voting at the final stage.

On another occasion the Acting Colonial Secretary introduced a motion asking the approval of the Council for the expenditure of sums amounting to £ 292,998 in connection with the taking over of the Colombo Electric Supply and Distribution System under the Hydro-Electric Scheme and the inclusion of the necessary provision in the Budget. The object of the motion was, as the Acting Colonial Secretary stated, to give early intimation to the Council of the heavy expenditure involved and to give it the opportunity of fully discussing the matter.²⁸ An Honourable Member Mr. W. Duraiswamy objected to the improper way in which the motion had been introduced. His view was that motions of this kind should be brought into the House in the shape of a Supply Bill or in the form of a request for supplementary provision. If this latter procedure had been adopted, Unofficial Members could have had the motion referred to a Select Committee of the Whole House composed of Members of the Finance Committee and there they would have had the opportunity of inquiring fully into the project and also of questioning Heads of Department who were concerned with the project. In the case of supplementary provision, the Finance Committee would have investigated the matter. But on the occasion in question, the Honourable Member averred that though the motion spoke of including

24. These views were expressed by Mr. A. Mahadeva, *ibid.* p. 100.

25. *ibid.* p. 106. Mr. Tambimuttu earlier characterised the Government's method of introducing the motion as "confoundedly clever" and added that it was brought up in an "unconstitutional manner." *ibid.* p. 104.

26. *ibid.* p. 109.

27. *ibid.* p. 119.

28. *Hansard* 1927. p. 733.

the necessary provision in the Budget, once the vote was approved in open Council, it would not be quite proper to turn the vote down in the Finance Committee. The Officer Administering the Government, however, did not agree with the Unofficial Member's contention. During the committee stage of the motion, a most unusual procedure was adopted. Government officials like Mr. Parry (an Electrical Engineer) and Mr. Wimalasurendra (the Chief Electrical Engineer) were summoned for the first time into the Council Chamber before a Committee of the Whole House (including all Official Members and Unofficial Members) and questioned on certain items regarding the purchase of the proposed electrical plant.²⁹ The motion was approved. This was something quite unprecedented, for public servants had never before been summoned into the precincts of the Legislative Chamber and made to answer questions asked from them by Unofficial Members of the Legislative Council.

Sometimes the Government was beaten in Committee and votes were cut. Government adopted two courses to recover lost ground. It sometimes gave in, accepted the cut and later in the year presented the Finance Committee with a supplementary vote for approval stating that rejection would result in serious dislocation to the machinery of administration. Unofficial Members as was stated earlier in order to avoid being held responsible for such dislocation usually voted the supplementary provision. On other occasions, Government restored the cut when the Budget was brought up before the Committee of the Whole House. In Committee of the Whole, Government may have succeeded in getting through an item with the aid of the Official Group of twelve and some of its supporters who voted in the Select Committee stage and were in a minority. Much depended, however, on how the voting went in the Select Committee which in fact was the Finance Committee sitting under another name. If the opposition was decisive there was no purpose in attempting to have the cut restored. But if there was a fair measure of support, then there was a possibility that with the aid of the full Official strength of twelve the estimate might go through the Council. (In the Finance Committee there were only three Government Officials; in the Committee of the Whole, all twelve members of the Official Group could participate and vote in the proceedings). A last resort, if both these devices failed, was for the Governor to certify the measure as one of paramount importance under Clause 54 of the Constitution. This procedure was used only once during the whole period of the Manning Constitution when Unofficial Members refused to

29. Refer *ibid.* pp. 760-769 for a fuller account of the proceedings.

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sanction the order of the Governor on July 4th, 1929, as regards a surcharge on customs revenue which involved an increase in import duties.³⁰ It was threatened on another occasion when at the Committee stage (of the Whole) of the Supply Bill for 1929-30, the Clerk called Head 66 which related to (1) Passages of Officers etc., (2) Holiday Warrants and (3) Miscellaneous services rendered by the Railway. The Select Committee on the Budget had recommended that the amounts allocated to these items by the Government be deleted, but the Acting Colonial Secretary, when the Clerk called Head 66, moved that the amounts be restored. He added : "The House is aware that the Government attaches much importance to the restoration of these items."³¹ Sir P. Ramanathan moved that the reduction proposed by the Unofficial Members be substituted. In the course of the discussion which followed it was revealed that the Governor had received instructions from the Secretary of State that the item regarding passages for Officers etc., was to be restored by the use of the powers of certification, if necessary.³² Unofficial Members thereupon resorted to the face-saving formula that as the order was from the Secretary of State and as the Governor was no party to it, they would vote for the restoration and save the Governor the trouble of certifying the particular item as one of paramount importance. The motion of the Colonial Secretary was eventually passed, 26 voting for it and 11 against. This power under Clause 54 of the Constitution was only used when all other methods failed because its frequent use would have created unpleasant relations between Government and Unofficials, perhaps even resulting in an impasse.

Unofficial Members held to the view that the Select Committee on the Budget and the Finance Committee exercised complete control over expenditure and that except on matters of paramount importance, Government should respect the decisions of the Committees referred to. Mr. E. W. Perera speaking on August 17th, 1925 had occasion to refer to this doctrine and quoted Colonel L. C. S. Amery in support of his view. Colonel Amery is reported to have stated :—

"In the new Constitution of Ceylon, (i.e. the Manning Constitution) we have appointed a Finance Committee consisting of a very few Officials and with all the Unofficials who will have absolute control over the finances, and their verdict will not be repealed except on very rare occasions"³³

30. Vide *Hansard* 1929. pp. 623, 654, 666, 667-669 and 688 for an account of the proceedings.

31. *ibid.* p. 1233.

32. *ibid.* p. 1277.

33. As quoted by Mr. E. W. Perera, vide *Hansard* 1923. p. 451.

Governor Manning, however, took a different view. In the circumstances the opinion of the Governor has to be accepted as the correct interpretation of the Constitution. His Excellency replying to Mr. Percera stated :—

“Parliamentary Colonial Secretaries may, if they choose, lay down what they consider to be the functions of any Committee or Constitution; but it is amply clear that in the case under consideration Colonel Amery was distinctly wrong. What he said was, and what I have said in the Council was, that in so far as it is possible the Government accepts the conclusions come to by any Finance Committee. (Note, Finance Committee also included the Select Committee on the Budget) I think I am right in saying that during my period of office, with the exception of this question of salaries and its adjuncts, the Government has accepted the rulings of the Finance Committee. Therefore Colonel Amery was to an extent correct, and he was correct possibly in stating that the Government did accept these rulings. But he was incorrect in his appreciation of the functions and of the position of the Finance Committee with reference to this Council.”³⁴ These illustrations serve to show that the Executive Council had not after all altogether ceased to be the centre of Governmental activity.³⁵ The difference was that under the new dispensation the Governor’s advisers came out more into the open and discussed their plans with the representatives of a limited electorate whereas formerly they had tended to plan out most of their projects within the enclosed atmosphere of an exclusive Council.

34. *ibid.* p. 456.

35. Vide *Sessional Paper XXXIV* of 1929 where Governor Sir Herbert Stanley in paragraph eleven of his Despatch to the Secretary of State for the Colonies dated 2nd June, 1929 stated inter alia : “The Executive Council is in fact very fully consulted by me, and it exercises a very potent influence on the Government’s policy and decisions. I am not aware of the grounds on which the (Donoughmore) Commissioners base their conclusion that all important business has been diverted from the Executive Council to the Finance Committee of the Legislative Council. I cannot recall a single instance in which I have caused the Finance Committee to be consulted before I referred a question to the Executive Council, and in papers which have come before me I have seen nothing to indicate that such a practice was habitually or ordinarily followed by my predecessor. No doubt, there have been occasions when the Executive Council has advised that some particular question should be left to be decided by the Legislative Council, but conversely on other occasions the Executive Council has advised against the acceptance of some resolution or amendment adopted, or likely to be adopted, by the Legislative Council, and the Government has acted upon that advice. The authority of the Executive Council, similarly to the authority of the Governor, has of necessity become less absolute than it was prior to the transfer of power in the Legislative Council from an official to an unofficial majority, but it has not undergone the almost complete eclipse ascribed to it by the Commissioners.” The Secretary of State in paragraph three of his reply to the Governor, dated 10th October 1929, seemed to agree with the latter regarding his views about the findings of the Donoughmore Commissioners when he stated inter alia : “.....I agree with you that the Special Commission may well be thought to have laid undue emphasis on the difficulties of working of the existing Constitution and that the sum total of achievement of the last four or five years reflects credit on the enthusiasm and co-operative goodwill of the Members of the Legislative Council.” *ibid.* p. 24.

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An examination of the rules, regulations and functions of the Finance Committee will also help to determine whether the Committee encroached into the territory of the Executive Council or whether it merely carried out the tasks allotted to it from time to time by the Executive. The evidence will reveal that the Finance Committee increased in importance during this period not due to any conscious exertion on its part or to any legal requirement stipulated in the Constitution but because political sense persuaded the Executive to utilize the services of the Committee for purposes other than those mentioned in the Constitution. At no time did the Unofficial Members of the Finance Committee desire to expand their powers or to diminish the authority of the Executive Council. In fact there were times when Unofficial Members complained that the Executive was attempting to entrust them with duties which were outside their proper province.³⁶ The evidence therefore points to the conclusion that the findings of the Donoughmore Commissioners were not based on facts.

According to Rule 43 of the rules and orders of the Legislative Council, the Chairman and 3 Unofficial Members were sufficient to constitute a quorum. This provided the Government with an opportunity of getting through a good deal of its work in a depleted Finance Committee. Members were either not too keen on attending meetings of the Committee except when there was some item of business which directly concerned the interests of their constituents, or even if they decided to attend meetings, the railway time table did not give them the opportunity of staying on for the entire duration of the meeting. The Unofficial Members representing the Northern and Eastern Provinces were among those affected by the railway time table. Not seldom, the agenda was so arranged as to provide for the more important business being taken up for consideration during the latter half of the meeting. The result was that more time was spent in lengthy debate and discussion on the less important part of the agenda while the more important business was taken up for consideration just at the time when outstation members began to leave for their trains. Government was thus able to get many of its supplementary votes etc., passed in a depleted house.³⁷ Moreover, not all Unofficial Members took the trouble to attend meetings of the Finance Committee unless the items on the agenda affected their constituents or the interests that they represented.³⁸ Even then they tended to feel

36. Note the statements of Unofficial Members on the occasion of the debate on the 'Report of the Select Committee appointed to revise the Rules and Orders of the Legislative Council' in pages 638-651 of *Hansard* 1927.

37. Vide comments of Mr. E. R. Tambimuttu in pp. 723 and 725 of *Hansard* 1927.

38. *ibid.*

that they could raise a discussion when the report of the Committee was brought up for confirmation before the legislature. For sub-section 2 of Rule 45 provided for this. It stated that reports of the Committee which approved of expenditure should be put up for confirmation by the legislature, without debate but if at least three members present demanded that a discussion should take place then this would have to be allowed. What normally happened however was that the reports of the Finance Committee slipped through legislative twilight generally unnoticed and Unofficial Members forfeited their opportunity of raising a debate at the appropriate moment.

The functions of the Finance Committee were defined in Rule 44 of the Rules and Orders of the Legislative Council. According to this definition the Committee was to consider votes for supplementary or unforeseen expenditure when (a) the Legislative Council was not in session or (b) when the Council was in session but had been adjourned *sine die* or for a period exceeding twenty days. Normally the sanction of the Legislative Council would have been necessary for the adoption of these votes but this provision enabled the Government to obtain approval for this type of expenditure without formally summoning the Council for the purpose. A great deal of time was thereby saved. Mr. D. B. Jayatilaka bore testimony to this time-saving device when speaking on the subject of 'the Rules and Orders of the Legislative Council.' Inter alia, he said "... what would be the position of this Council if every item, which is now discussed in the Finance Committee is to be brought up before this Council? The work of this Council will be so enormous and the time you can devote to it will be so insufficient, that we may have to sit not two days, but perhaps four or five days in the week" ³⁹

The consideration of votes for supplementary or unforeseen expenditure was thus the only function entrusted to the Finance Committee by the Rules and Orders of the Legislative Council. In carrying out this task, the Committee found that it had to devote more and more of its time to consider such votes because these tended to increase in amount with the lapse of each year. This was especially so during the pre-Manning period. For instance in 1915-16, the supplementary estimates approved by the Finance Committee amounted to over 6 million rupees; in 1917-18 it was 7 million rupees; in 1918-19, 14,634,000 rupees and in 1919-20, 14,180,000 rupees.⁴⁰ The reason for the continued increase was, according to the Colonial Secre-

39. *ibid.* p. 647.

40. As contained in a statement of the Colonial Secretary in *Hansard* 1921, p. 286.

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tary, the tendency on the part of Unofficial Members to cut down the estimates of the Heads of Departments to such an extent that the latter had to come to the Finance Committee for additional funds. During the period of the Manning Constitution too there was an increase from year to year except for 1926-27, in the amount of supplementary expenditure sanctioned by the Finance Committee. In 1924-25, the amount was 6,513,136.89 rupees ; in 1925-26, it was 11,477,551.67 rupees ; for 1926-27, it amounted to 10,590,942.86 rupees and for 1927-29, it was 13,873,841.94 rupees.⁴¹

The Finance Committee's functions however did not end with the consideration and confirmation of supplementary votes or of unforeseen expenditure. The minority situation in which the Executive found itself persuaded it to extend the functions of the Finance Committee. It is on this count that there arose some controversy regarding the interpretation to be given to the rules and orders of the Legislative Council. According to Rule 42, the times for the sittings of the Finance Committee were to be determined by its Chairman, i.e. the Colonial Secretary, with the proviso that not less than forty hours' notice of each meeting should be given to the members. Rule 44 on the other hand laid down that the Committee was to consider votes for supplementary or unforeseen expenditure when (a) the Legislative Council was not in session or (b) when the Council was in session but had been adjourned *sine die* or for a period exceeding twenty days. The question arose as to whether these rules (42 and 44) should be applied independently of each other, at the discretion of the Colonial Secretary, or whether they should be taken together and the Committee summoned only when the legislature was not in session, or when it had been adjourned *sine die*, or for a period exceeding twenty days. The moot point was raised by Mr. E. R. Tambimuttu in the Legislative Council in 1921 when a report of the Finance Committee dated October 20th 1921 was brought up before the Council for its confirmation. Mr. Tambimuttu informed the Council that he had raised the question in the Committee but had been told that the Attorney-General was of opinion that Rule 42 governed the case and that it was open to the Council Secretary to summon a meeting at any time, even when the Council was in session. It was Mr. Tambimuttu's contention that if this was so, there was no purpose in having Rule 44 as part of the Rules and Orders of the Legislative Council. The Governor, Sir William Manning, who was at the time also President of the Legislative Council (under the Temporary Constitution of 1921) did not give a conclusive ruling. He stated :—

41. *Hansard* 1929. p. 898.

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“ It appears to me that those two clauses clash with one another. Again the custom has been for the Finance Committee to sit at such times as are convenient to the members of that Committee, and I think it has been found that when the Council is sitting there are occasions when it is convenient that the members, having to be in Colombo, should attend a meeting of the Committee”⁴²

Ultimately however Rule 44 became a dead letter and it became a convention under the Manning Constitution for the Finance Committee to meet even when the Legislative Council was in session. Unofficial Members who lived in outstations preferred to fulfil their duties and discharge their responsibilities during the times they were in Colombo—and such occasions generally coincided with meetings of the Legislative Council.

The non-observance of Rule 44 led to meetings of the Finance Committee being arranged on days when the Legislative Council met, either before the latter assembled or just after its adjournment. If the meeting was after the adjournment, members from the outstations failed to turn up due to the exigencies of the railway time table while members in general kept away due to exhaustion after a hard day's work. Moreover Unofficial Members did not care very much to attend meetings because its proceedings were confidential and were therefore not available to the public. Their non-attendance would pass unnoticed and their constituents would not be in a position to take them to task for any neglect of duty on their part. Government was thus able to get its business through in a depleted house.

The situation was about the same when the Committee met while the Legislative Council was not in session. Then too Unofficial Members who lived out of Colombo tended to play truant, preferring to spend that time among their constituents or in the pursuit of their professional activities. Usually it was only when matters concerning their constituents or when a matter of national importance was placed on the agenda that they marked their attendance at Committee meetings. Unofficial Members who resided in Colombo on the other hand generally attended these meetings. Most of them however happened to be the representatives of communal electorates—Europeans, Burghers and others. This group in many matters saw eye to eye with the Government, though not always. Criticism of and opposition to Government policy generally came from the territorial members—but as has been mentioned earlier, they were not always in Colombo to

42. For a full account vide *Hansard* 1192, pp. 677-679.

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participate in Committee meetings. The absence of these members at meetings of the Finance Committee thus helped the Government to get through most of its business without much difficulty especially the sanctioning of supplementary or unforeseen expenditure. On the other issues, Government was able to gauge the views of Unofficial Members. As has been mentioned elsewhere it helped the Government to ascertain the amount of support it would get for its legislative projects if these were introduced in the Legislative Council. Sometimes programmes, policies and projects were modified or improved in the light of discussions that took place at the Committee meetings. The Committee thus developed into a chamber of consultation—though this position was never regularised by law.

The Government was however not in any way bound by the decisions of the Finance Committee. Rule 45 of the Rules and Orders of the Legislative Council made the position quite clear. It provided that the Chairman of the Committee should present to the Council the report of the Committee detailing the items of expenditure approved by it and also any expenditure proposed to the Committee but not approved by it. Supplementary or unforeseen expenditure was not however the only question that engaged the attention of the Finance Committee. As stated earlier, Government also submitted most of its legislative projects for the consideration of the Committee. Unofficial Members took up the position that Government should accept the decisions of the Committee on all these matters or at least agree to some form of compromise. Government however preferred not to commit itself to any set procedure. It improvised as occasion arose and preferred to leave the Unofficial Members guessing as to what it would next do if defeated in Committee. It generally followed a policy of "never say die." Usually a compromise helped to resolve differences between the two sectors. The secrecy of the Committee's proceedings helped Unofficial Members to desist from insisting on their full pound of flesh. The confidential atmosphere of the Committee room made it unnecessary for members to indulge in vituperative assaults on the Officials. There was no necessity for them to magnetize admiring constituents by the vitriolism of rhetoric or to score debating points over the Government as in open Council. Generally the spirit of reasonableness and compromise prevailed on both sides.⁴³ Hence the Attorney-General was able to say on the occasion when the report of the Select Committee appointed to revise the Rules and Orders of the Legislative Council came up for consideration:—

43. Vide *Sessional Paper XXXIV* of 1929, where Governor Stanley in paragraph twelve of his Despatch to the Secretary of State for the Colonies dated 2nd June 1929, state inter alia:— "Some of the points raised and some of the things said in the Finance Committee might not have been raised or

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“The powers and functions of the Finance Committee are perfectly well known and are laid down in the rules. They are to deal with matters of finance ; but a practice has grown up, which I venture to suggest is a harmless and useful practice, whereby the Government open their hearts to the Finance Committee more than it is practicable for them to do in Council. It is a very convenient way of ascertaining informally the wishes and opinions of the Council.....”⁴⁴

Mention must also be made of a legislative committee which acted in a more than advisory capacity to the Finance Committee. This was the Public Works Advisory Board. It was a permanent committee of the Legislative Council and exercised considerable influence in the financial sphere.⁴⁵ It was however not given statutory recognition under the Manning Constitution. It was appointed by the Governor on October 16th 1925 replacing the Consultative Committee on Roads which had functioned in a similar capacity but with more restricted powers under the previous Constitution until September 1925.⁴⁶

The Board at first consisted of the Director of Public Works as Chairman and 9 Unofficial Members, one for each province. The General Manager of Railways, the Assistant Colonial Secretary and the Assistant Director of Public Works (Secretary) were also members of the Board. On December 31st 1925, a European Unofficial Member was appointed to the Board to

Contd. from Page 243.

said in the publicity and more formal atmosphere of the ordinary Committee of the whole Council. On the other hand, proceedings conducted in private were likely to be less rhetorical and more business like, and it would be easier for members to reconsider, in the light of discussion, opinions to which they had not committed themselves publicly. Nor, upon a broad general survey of the facts within my knowledge, should I be disposed to say that the Finance Committee had dealt otherwise than reasonably and generously with most of the financial business referred to it. Occasional disagreements there have been, occasional delays, occasional decisions, which the Government has thought unfortunate, but they have been the exception rather than the rule.”

44. Vide *Hansard* 1927. pp. 641 and 642.

45. Note the remarks of Mr. C. H. Z. Fernando when speaking on November 17th 1927, on the occasion of the Colonial Secretary's motion on 'the Price of Electric Current' when he stated *inter alia* :— “We have had instances in the past where the Government has handed its functions over to various Boards. There is the Public Works Advisory Board, which is doing a great deal of work but we who are not on that Board feel that it is running the whole Colony. Matters affecting our constituencies have come up in Finance Committee and been accepted by Government but thrust out by the Public Works Advisory Board. I myself have brought several matters before the Government and the reply has been that the Public Works Advisory Board has decided otherwise.....” *Hansard* 1927. pp. 1903 and 1904.

46. Vide *Administration Report* of the Director of Public Works for 1925, page A 5, paragraph 12 for further details.

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represent the European interests. In July 1926 an additional representative for the Western Province was included in the Board and in 1927, the Director of Irrigation was given a place in it.

The functions of the Board were best described by the Colonial Secretary, Sir A. G. M. Fletcher in the course of his evidence before the Donoughmore Commission. In response to a question from Sir Mathew Nathan, Fletcher stated *inter alia* that the Board " . . . is a standing committee appointed by the Governor, an advisory committee on all matters connected with public works on the programmes."⁴⁷ Continuing further, he added " the practice has recently grown up of referring all the estimates to a Public Works Advisory Board"⁴⁸ In short the function of the Board was to consider the public estimates of Heads of Departments and others in respect of development projects and also to consider matters regarding the inauguration and improvement of public works in various parts of the Island.

The reason for the formation of this board of advisors was that the public works estimates of the Island had increased considerably during the nineteen twenties. Numerous requests were made by Unofficial Members for the improvement of their constituencies. The question then arose as to how best the nation's funds could be shared out in an equitable manner without causing unnecessary hardships to any constituency. The Public Works Advisory Board was constituted for this purpose—to act as arbiter between the rival claims of various Unofficial Members.

The proceedings of the Board like those of the Finance Committee were private and confidential. In 1925, after its constitution on October 16th, it met once a month. In 1926, it held 9 meetings and most of its time was spent on considering and criticising schemes and estimates. To this extent, it helped greatly to facilitate the transaction of public business.⁴⁹ In 1927, the Board held 11 meetings, and in the second week of May, it met for the specific purpose of making recommendations on applications made by Heads of Departments and others in regard to proposals for public works to be included in the forthcoming budget.⁵⁰ There was an expansion in the activities of the Board during this year for in September, 1927, the

47. *vide Oral Evidence taken by the Donoughmore Commission*, Volume I, p. 11.

48. *ibid.* p. 19.

49. As stated by the Director of Public Works who was Chairman of the Board, in each of his Administration Reports during the period 1924 to 1931.

50. *Administration Report of the Director of Public Works for 1927*, p. A 12, paragraph 36.

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Government decided that the Board should also function as an Advisory Committee for matters concerned with irrigation works and for this purpose appointed the Director of Irrigation as a member of the Board.⁵¹ In 1928, the Board held 18 meetings. The practice of meeting in the month of May for the purpose of considering the public estimates of Heads of Departments and other officials in respect of development projects began to develop into an annual feature—for this was repeated once more in 1928 and thereafter every year till the dissolution of the Board in 1931. In 1928, the Board held 12 meetings, in 1929, 10 meetings and in 1930, 6 meetings.

In general the Public Works Advisory Board helped to expedite the dealing with votes on public works when these came up for consideration before the Finance Committee and the Select Committee on the Budget. A perusal of the Administrative Reports of the Director of Public Works for each of the years 1924 to 1931 will confirm this view. But there were occasions when the Board held up public business due either to petty bickerings and squabbles between the Unofficial Members of the Board⁵² or due to some major question of special importance. These differences of views between Members were however not a regular feature nor did they tend to produce deadlocks or feuds so as to baulk the working of the administrative machinery. Further, the Government did not on all occasions accept the decisions of the Board. There were times when there were differences and the Government prevailed because it was the Government which in the end had the right to initiate and authorise expenditure. For instance when the Colonial Secretary moved the First Reading of the Supply Bill for 1928-39 on July 12th, 1928, he thanked the Board for all the assistance it had rendered, "both in connection with this Budget, and in all matters connected with works, throughout this year" but regretted the fact that the Government had no alternative but to curtail the programme

51. *ibid.* page A 13.

52. Mr. V. S. de S. Wikramanayake when speaking on 23.10.28 in the Legislative Council on the subject: 'Donoughmore Commission: Government by Committees,' stated inter alia:—

"With due deference to the Members of the (Public Works) Advisory Board, I must say that there are times when a Member tries to get as much as possible for his district. I only say that that is the case generally. It is human nature and I would do the same thing, perhaps, if I was on that Board. I know of one case where a Member who when a certain road was turned down and some other road in another district was accepted, got another meeting of the Board held and managed to get this road, which was turned down at first, accepted by the Board. Such things are not uncommon" *Hansard* 1928. p. 1475.

Refer also the evidence given by Sir A. G. M. Fletcher (Colonial Secretary) before the Donoughmore Commission when he stated inter alia:—

"the practice has recently grown up of referring all the estimates to the Public Works Advisory Board and they have revised the list too late for the Government really to put forward a programme which it is certain about." *Oral Evidence taken by the Donoughmore Commission*, Vol. I. p. 19.

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which the Board had passed.⁵³ This was not however a regular feature. Usually the Government and the Unofficial Members of the Board reached agreement and there was very little room left for complaint or controversy.

There were also occasions when the Finance Committee and the Public Works Advisory Board had differences of opinion. On such issues, if they were vital, the Government brought up the matters in dispute before the Legislative Council and a vote after debate and discussion settled the question. This was the procedure followed with regard to the subject of removing the headquarters of the Assistant Government Agent from the town of Mullaitivu to that of Vavuniya. The Finance Committee was of the opinion that the headquarters should remain at Mullaitivu and that certain repairs in the building there should be effected without unnecessary delay. The Assistant Government Agent and the Director of Public Works however seemed to favour the transfer to Vavuniya. The Board overlooked the decision of the Finance Committee, called for estimates and requested the Government to refer the matter for further consideration to the Committee. The Government then decided to bring the matter up for final decision in open Council as no agreement could be reached. On that occasion, some Members of the Finance Committee complained that the Board had exceeded its rights in ignoring the decision of the Committee and referring the subject for the further consideration of the Committee. Eventually a compromise was reached by a suggestion that a Committee of Inquiry should sit on the whole question.⁵⁴ It should however be noted that such disputes or differences between the Board and the Committee were few and far between. On most matters the Committee accepted the decisions of the Board even when these ran counter to the wishes of the Committee. It was evident during the latter years of the Constitution that the Board had come to function as an umpire between the rival claims put forward by Unofficial Members of the Finance Committee and the latter came to look upon the Board as the ultimate arbiter of these conflicting claims and disputes.

The Public Works Advisory Board was therefore one of the more important mechanisms of the Manning Constitution which enabled it, with all its limitations, to function in a smooth and efficient manner. It was evidence of the desire of Unofficial Members of the Legislative Council to co-operate and collaborate with the Government without embarrassing the

53. Vide *Hansard* 1928, p. 975.

54. Refer *Hansard* 1929, pp. 372, 386-389, 394, 396 and 408-409 for a full account of the dispute.

latter or causing unnecessary hardships to administrative officials. There was no evidence available to show that Unofficial Members of the Public Works Advisory Board were harsh and ruthless in their manner of dealing with Government Officials nor was there any evidence to indicate that Unofficial Members were eager or intent on acting in a concerted fashion to cut down recklessly the estimates put forward by Heads of Departments for the consideration of the Board.⁵⁵ The Administration Reports of the Director of Public Works for each of the years 1924 to 1931 bear adequate testimony to this conclusion. The Hansards of the period contain hardly any evidence of any bitter controversy between Officials and Unofficial Members of the Board.

In fact the Board acted with such efficiency and went about its task in such a thoroughly businesslike manner that many preferred to leave it to enjoy its comparatively anonymous existence. Mr. A. Mahadeva's verdict on the work of the Board when speaking on the Committee system with reference to the Donoughmore Constitution, on the occasion of the debate on this subject in the Legislative Council on 18th September 1928, is worth quoting here as typical of the Unofficial approach to the work of the Board. He stated (inter alia) on this occasion:

“ Take the case of the Public Works Advisory Board which is one of the most useful Boards I know of. There nearly every matter relating to the way a road should be constructed, what amount of money should be spent on a road, what buildings should be erected, where a hospital should be erected, and so on, comes before it, and I believe almost without exception every one of its recommendations is accepted by Government, and without discussion—that is an important point—accepted by this Council. It conduces to the speedy despatch of public business I feel in this matter that it is worth asking whether in associating Heads of Departments with these Committees, so that they may know the views of this House, and as far as possible be bound by the wishes of these committees, we are acting in a spirit of obstruction or because we think that it is in the best interests of the Colony. There can be no doubt in my mind that, unless

55. Vide statement of Sir (then Mr.) Francis Molamure when speaking in the Legislative Council on 19.10.28 on the subject:— ‘Donoughmore Commission: Government by Committees.’ Among other things he stated:— “I wish to refer to the Public Works Advisory Board. There again they deliberate and give the Head of the Department, the Director of Public Works, the very best advice they can give, and those on that body have had very many encomiums paid to them by the Officials who have come in contact with the Board.” *Hansard* 1928, p. 1436.

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we wish to paint ourselves as sickly hypocrites, we have been acting in this manner with the intention of promoting the despatch of public business in the most useful manner possible.”⁵⁶

The Finance Committee and its lesser version, the Public Works Advisory Board were thus the indispensable driving belts of the Constitution. The Committee did not become in any way a battleground where there was a regular trial of strength between three Officials on the one hand and a permanent and frustrated band of Unofficials on the other. The sane and seductive atmosphere of the committee room on the contrary offered both sides an excellent opportunity for arriving at reasonably acceptable formulae and compromises or of narrowing out differences where agreement was impossible. It is true that in this process, there were occasions when officials in the public service and Unofficial Members of the Legislative Council clashed, leading to strained relations between the two sections but blame could not be wholly attached to the Unofficial Members for such situations. The Constitution was so devised that the persons who could be held responsible for any lapses or faults in the daily task of administration and in the carrying out of policy, were, in the absence of elected Ministers, the officials themselves. There were some who argued that the blame should have been placed on the Governor or his chief representative in the Legislative Council, the Colonial Secretary. But when at times it was so patently obvious that the fault lay not on the Governor but on a particular Head of Department because of his deliberate unwillingness to adhere to the wishes of the legislature, there was no option left for Unofficial Members of the Legislative Council but to direct their criticisms at the officials concerned. Colonel T. Y. Wright who was a member of the Legislative Council during this time in his autobiographical account of his stay in Ceylon entitled ‘Ceylon in my Time, 1889-1949’ appears to lend some support to this view when he wrote that the existence of the Finance Committee “gave an opportunity to some members to bait Civil Servants, at times may be deservedly and at other times not.”⁵⁷ No useful purpose, however, will be served by placing the blame exclusively on either the Unofficial Members or the government officials. Both sections were to blame for any bitterness that developed. But it might also be worthwhile to note that much of the ill-will was in part due to the changed circumstances. The officials concerned had served under earlier dispensations where they had been accustomed to have their way because they were as-

56. *ibid*, p. 1412.

57. p. 159.

sured of a majority in the Legislative Council. They failed to appreciate the changes introduced under the Manning Constitution. They could no longer have the independence they had been accustomed to have. They were now expected to pay due attention to the representatives of the people in the Legislative Council. A good many of them reconciled themselves to the changes but there were quite a few who were bitter and obstinate and refused to accommodate themselves to the new situation.

The views of the Donoughmore Commissioners on the position of the public servant under the Manning Constitution was, however, altogether different. On page 126 of their report, they wrote :

“ The abuse of the Government Official (thus) became a familiar phenomenon. In the Council, in the sessions of the Finance Committee, on the public platform and in the Press attack followed attack and criticism was heaped on criticism. Policy was frequently discussed in terms of personalities and the discussion carried at times beyond the bounds of what was courteous or decent. The imputation of doubtful motives accompanied disagreement with particular action and allegations of all sorts were made against those who had little opportunity for reply. Though the Heads of Departments were naturally the worst sufferers, no class or grade of public officer was exempt from these painful experiences. Instead therefore of receiving that co-operation from elected members for which they might reasonably have looked, public officers found that under the new regime they must expect their endeavours to be met by ill-informed obstruction, their decisions to be greeted by personal disparagement. Never had they stood in greater need of support by a strong Executive.”

The above statements were, however, not an accurate assessment of the situation prevailing in the Services. There was discontent no doubt but it was not so widespread as to “ dishearten the Ceylon Services, to hamper their initiative and undermine their morale.”⁵⁸ There was criticism from the Unofficial sector in the legislature but it was not frequent and unceasing so as to cause a complete or even partial breakdown in efficiency. In fact the reports of the Select Committees on the Budget which were signed by the Colonial Secretary, the Controller of Revenue and the Colonial Treasurer contain no complaints that public servants were ill-treated or subject to any indignities. There was virulent criticism from the local Press but this could not have in any case been avoided. What is

58. As stated by the Donoughmore Commissioners in their Report, vide p. 127.

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important to note was that the relationship between the legislature and the administration was on a level which enabled the Constitution to function satisfactorily. Governor Sir Herbert Stanley put the situation in its proper perspective in his Despatch to the Secretary of State for the Colonies dated 2nd June, 1929. The following extract gives a fair impression of the relationship that existed between the legislature and administration :—

“ The Unofficial Members probably did not appreciate that the attitude which in the ventilation of these suspicions or grievances or representations they adopted towards the Government and some of its senior officers was liable to misconstruction outside the Council, where the allowance to be made for political exigencies, for habits of diction derived from local forensic antecedents and for the embellishments of rhetoric could not so easily be assessed as by those in charge of the Government’s business within the Council Some harm has been done, but not so much as might have been expected by an observer unfamiliar with our local circumstances, and I do not think that the harm done need prove irreparable. ”

A. J. WILSON